

## COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 081033, AS AMENDED

Enacting a new Chapter 88, Code of Ordinances, by adding Sections 88-10 through 88-820, which comprises the zoning and development code, and repealing Chapters 65, 66 and 80.

WHEREAS, the City's Zoning Ordinance and Subdivision Regulations have not had a major revision in many years; and

WHEREAS, the City would like to simplify and modernize these regulations; and

WHEREAS, this ordinance represents several years of difficult work by City staff, City consultants, the Zoning Ordinance Steering Committee, the City Plan commission, the Council, and interested members of the public; NOW, THEREFORE,

### BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 88, Code of Ordinances of the City of Kansas City, Missouri, is hereby enacted by adding new Sections 88-10 through 88-820, to read as follows:

## **Kansas City Zoning and Development Code**

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## **88-10 LEGAL FRAMEWORK**

### **88-10-01 TITLE**

The official title of this chapter (chapter 88) is the “Zoning and Development Code of the City of Kansas City, Missouri.” For convenience, it is referred to throughout this chapter as the “zoning and development code” or “this chapter.”

### **88-10-02 EFFECTIVE DATE**

#### **88-10-02-A. MANDATORY COMPLIANCE**

1. The provisions of this zoning and development code become effective on and compliance with its provisions is mandatory beginning June 1, 2010, except as otherwise expressly stated.
2. The sign provisions, Section 88-445, will become effective ten days after passage of this ordinance. If any provision of Chapter 80 conflicts with 88-445, Section 88-445 will govern. Until the remainder of this chapter is in effect, references in 88-445 to the zoning districts in this chapter will apply to the zoning districts in Chapter 80, as converted in 88-25-07 herein.

#### **88-10-02-B. VOLUNTARY COMPLIANCE**

Starting December 1, 2009, applicants may voluntarily elect to comply with the provisions of this zoning and development code (except the provisions that are already in effect). Those electing to voluntarily comply with this zoning and development code must comply with this zoning and development code in its entirety. Applicants may not selectively choose to comply with some provisions of this zoning and development code and some provisions of prior ordinances.

### **88-10-03 AUTHORITY**

This zoning and development code is adopted pursuant to the powers granted and limitations imposed by Missouri law, RSMo Chapter 89, the City Charter and the City of Kansas City’s home rule authority.

### **88-10-04 APPLICABILITY**

The regulations of this zoning and development code apply to all development, public or private, within the corporate limits of the City of Kansas City unless otherwise expressly stated in this zoning and development code.

### **88-10-05 PURPOSES**

This zoning and development code is adopted for the purposes of:

- 88-10-05-A.** protecting and promoting the public health, safety and general welfare;
- 88-10-05-B.** implementing the policies and goals contained with officially adopted plans;
- 88-10-05-C.** enhancing residents’ quality of life;
- 88-10-05-D.** protecting the character of established residential neighborhoods;

**88-10-05-E.** maintaining economically vibrant and visually attractive business and commercial areas;

**88-10-05-F.** retaining and expanding the city's industrial and employment base;

**88-10-05-G.** accommodating mixed-use, pedestrian-oriented development patterns;

**88-10-05-H.** promoting pedestrian, bicycle and transit use;

**88-10-05-I.** maintaining orderly and compatible development patterns that promote an appropriate mix of land uses and protect and conserve property values;

**88-10-05-J.** ensuring adequate light, air, privacy and access to property;

**88-10-05-K.** promoting natural resource conservation and environmentally responsible development practices;

**88-10-05-L.** promoting rehabilitation and reuse of older buildings, including adaptive reuse;

**88-10-05-M.** maintaining a range of housing choices and options;

**88-10-05-N.** ensuring provision of adequate public facilities and services;

**88-10-05-O.** establishing clear and efficient development review and approval procedures; and

**88-10-05-P.** accommodating orderly and beneficial development in accordance with the preceding purposes.

**88-10-06 MINIMUM REQUIREMENTS; COMPLIANCE WITH OTHER APPLICABLE REGULATIONS**

**88-10-06-A.** The provisions of this zoning and development code are the minimum requirements deemed necessary to carry out the zoning and development code's stated purpose and intent.

**88-10-06-B.** In addition to the requirements of the zoning and development code, all uses and development must comply with all other applicable city, state and federal regulations.

**88-10-06-C.** All references in the zoning and development code to other city, state, or federal regulations are for informational purposes only and do not constitute a complete list of such regulations. These references do not imply any responsibility for the city to enforce state or federal regulations.

**88-10-07 COMPLIANCE REQUIRED**

Except as otherwise expressly provided in this zoning and development code:

**88-10-07-A.** A building or structure may not be erected, moved, reconstructed, extended or structurally altered for any purpose other than one that is permitted in the subject zoning district.

**88-10-07-B.** Land may not be used for any purpose other than one that is permitted in the subject zoning district.

**88-10-07-C.** Buildings, structures and land may be used and arranged only in compliance with the requirements specified in this zoning and development code.

**88-10-07-D.** No building or structure may be erected or moved onto a lot that is not served by a street constructed in accordance with the standards adopted by the director of public works.

## **88-10-08 CONFLICTING PROVISIONS**

### **88-10-08-A. CONFLICT WITH STATE OR FEDERAL REGULATIONS**

If the provisions of this zoning and development code are inconsistent with those of the state or federal government, the more restrictive provision will control, to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.

### **88-10-08-B. CONFLICT WITH OTHER CITY REGULATIONS**

If the provisions of this zoning and development code are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the city, the more restrictive provision will control. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.

### **88-10-08-C. CONFLICT WITH PRIVATE AGREEMENTS AND COVENANTS**

This zoning and development code is not intended to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this zoning and development code impose a greater restriction than imposed by a private agreement, the provisions of this zoning and development code will control. If the provisions of a valid, enforceable private agreement impose a greater restriction than this zoning and development code, the provisions of the private agreement may control. The city does not enforce or maintain a record of private agreements.

## **88-10-09 SEVERABILITY**

If any portion of this zoning and development code is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the zoning and development code and in no way affects the validity of the remainder of the zoning and development code.

## **88-15 GENERAL RULES OF LANGUAGE AND INTERPRETATION**

### **88-15-01 MEANINGS AND INTENT**

The language of the zoning and development code must be read literally. Regulations are no more or less strict than stated. Words and terms expressly defined in 88-805 and 88-810 or other sections of this ordinance have the specific meanings assigned, unless the context expressly indicates another meaning. Words that are not expressly defined in this ordinance have the meaning given in the latest edition of Merriam-Webster's *Unabridged Dictionary*.

### **88-15-02 TENSES AND USAGE**

**88-15-02-A.** Words used in the singular include the plural. The reverse is also true.

**88-15-02-B.** Words used in the present tense include the future tense. The reverse is also true.

**88-15-02-C.** The words “must,” “will,” “shall” and “may not” are mandatory.

**88-15-02-D.** The word “may” is permissive, and “should” is advisory, not mandatory or required.

**88-15-02-E.** When used with numbers, “up to X,” “not more than X” and “a maximum of X” all include “X.”

### **88-15-03 CONJUNCTIONS**

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

**88-15-03-A.** “And” indicates that all connected items or provisions apply; and

**88-15-03-B.** “Or” indicates that the connected items or provisions may apply singularly or in combination.

### **88-15-04 FRACTIONS**

The following rules apply to fractional number unless otherwise expressly stated.

#### **88-15-04-A. MINIMUM REQUIREMENTS**

When a regulation is expressed in terms of a minimum requirement, any fractional result of 0.5 or more must be rounded up to the next consecutive whole number. For example, if a minimum requirement calling for one tree to be provided for every 30 linear feet of frontage is applied to a 50-foot dimension, the resulting fraction of 1.67 is rounded up to 2 required trees.

#### **88-15-04-B. MAXIMUM LIMITS**

When a regulation is expressed in terms of maximum limits, any fractional result will be rounded down to the next lower whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet is applied to a 12,500 square foot lot, the resulting fraction of 2.5 is rounded down to 2 (allowed dwelling units).

### **88-15-05 HEADINGS AND ILLUSTRATIONS**

Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of this zoning and development code. In case of any difference of meaning or implication between the text of this zoning and development code and any heading, drawing, table, figure, or illustration, the text controls.

### **88-15-06 REFERENCES TO OTHER REGULATIONS**

All references in the zoning and development code to other city, county, state, or federal regulations are for informational purposes only, and do not constitute a complete list of such regulations. These references do not imply any responsibility by the city for enforcement of county, state, or federal regulations.

### **88-15-07 CURRENT VERSIONS AND CITATIONS**

All references to other city, county, state, or federal regulations in the zoning and development code refer to the most current version and citation for those regulations, unless expressly indicated otherwise. When the referenced regulations have been repealed and not replaced by

other regulations, zoning and development code requirements for compliance are no longer in effect.

#### **88-15-08 LISTS AND EXAMPLES**

Unless otherwise expressly indicated, lists of items or examples that use “including,” “such as,” or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

#### **88-15-09 DELEGATION OF AUTHORITY**

Whenever a provision appears requiring the head of a department or another officer or employee of the city to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority. Delegation of authority is not allowed when the provisions of this zoning and development code expressly prohibit such a delegation.

#### **88-15-10 PUBLIC OFFICIALS AND AGENCIES**

All employees, public officials, bodies and agencies to which references are made are those of the City of Kansas City unless otherwise expressly stated.

### **88-20 ZONING MAP**

#### **88-20-01 ESTABLISHMENT**

The location and boundaries of the zoning districts established by this zoning and development code are shown on a geographic coverage layer entitled “Zoning” that is maintained as part of the city’s geographic information system (GIS) under the direction of the city planning and development director. This “Zoning” geographic coverage layer constitutes the City of Kansas City’s official zoning map. The official zoning map—together with all notations, references, data and other information shown on the map—is adopted and incorporated into this zoning and development code. It is as much a part of this zoning and development code as if actually depicted within its pages.

#### **88-20-02 MAINTENANCE AND UPDATES**

The city planning and development director is responsible for directing revisions to the official zoning map to reflect its amendment as soon as possible after the effective date of zoning map amendments (rezonings). No unauthorized person may alter or modify the official zoning map. The city planning and development director may authorize printed copies of the official zoning map to be produced, and must maintain digital or printed copies of superseded versions of the official zoning map for historical reference.

#### **88-20-03 DISTRICT BOUNDARIES**

When the zoning map shows a zoning district boundary as following a particular feature, or reflects a clear intent that the boundary follows the feature, the boundary will be construed as following that feature as it actually exists. The official zoning map must note any such relationship between a zoning boundary and other mapped feature on the zoning map when entering the zoning boundary.

#### **88-20-04 INTERPRETATIONS OF DISTRICT BOUNDARIES**

Where any uncertainty exists about a zoning boundary, the actual location of the boundary will be determined by the city planning and development director using the following rules of interpretation:

**88-20-04-A.** A boundary shown on the zoning map as approximately following a river, stream, lake or other watercourse will be construed as following the actual centerline of the watercourse. If, subsequent to the establishment of the boundary, the centerline of the watercourse should move as a result of natural processes (flooding, erosion, sedimentation, etc.), the boundary will be construed as moving with the centerline of the watercourse.

**88-20-04-B.** A boundary shown on the zoning map as approximately following a ridge line or topographic contour line will be construed as following the actual ridge line or contour line. If, subsequent to the establishment of the boundary, the ridge line or contour line should move as a result of natural processes (erosion, slippage, subsidence, etc.), the boundary will be construed as moving with the ridge line or contour line.

**88-20-04-C.** A boundary shown on the zoning map as approximately following a lot line or parcel boundary will be construed as following the lot line or parcel boundary as it actually existed at the time the zoning boundary was established.

**88-20-04-D.** A boundary shown on the zoning map as approximately following a street or railroad line will be construed as following the centerline of the street or railroad right-of-way.

**88-20-04-E.** A boundary shown on the zoning map as approximately following the boundary of an adjacent municipality will be construed as following that boundary.

**88-20-04-F.** A boundary shown on the zoning map as approximately parallel to, or as an apparent extension of, a feature described above will be construed as being actually parallel to, or an extension of, the feature.

### **88-25 TRANSITIONAL PROVISIONS**

#### **88-25-01 APPLICATIONS SUBMITTED BEFORE JUNE 1, 2010**

Development applications (except signage) that were submitted in complete form and are pending approval on the effective date specified in 88-10-02 must be reviewed wholly under the terms of the zoning and subdivision ordinances in effect immediately before the effective date specified in 88-10-02 unless the applicant elects to comply with this zoning and development code pursuant to 88-10-02-B.

#### **88-25-02 PERMITS ISSUED BEFORE JUNE 1, 2010**

Any building, development or structure for which a final building permit was issued before June 1, 2010 may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development or structure does not fully comply with provisions of this zoning and development code. If building is not commenced and diligently pursued within the time allowed under the original permit or any extension granted, then the building, development or structure must be constructed, completed and occupied only in strict compliance with the standards of this zoning and development code.

**88-25-03 SITE-SPECIFIC DEVELOPMENT PLANS APPROVED BEFORE JUNE 1, 2010**

**88-25-03-A.** Permits may be issued for previously approved, unexpired site-specific development plans in accordance with the approved plan. Site-specific development plans approved before June 1, 2010, will remain valid until June 1, 2015 unless a phasing plan or different lapse of approval date was approved at the time the site-specific development plan received final approval.

**88-25-03-B.** The city planning and development director and the city plan commission are authorized to grant one time extension for no more than one additional year if the city planning and development director or city plan commission determines that the extension is necessary to address delays beyond the reasonable control of the applicant. After the lapse of approval date, no permits or other approvals may be issued except in accordance with the standards and procedures of this zoning and development code.

**88-25-03-C.** For purposes of this section, “site-specific development plans” are plans or plats submitted by landowner or a landowner’s authorized representative describing with reasonable certainty the type and intensity of development for a specific parcel of property and that have been approved by the city plan commission, board of zoning adjustment and/or city council. Such plans may be in the form of a preliminary subdivision plats or plans, final subdivision plats or plans, or other similar plans, as determined by the planning and development director.

**88-25-04 VIOLATIONS CONTINUE**

Any violation of the previous zoning and development code will continue to be a violation under this zoning and development code and be subject to penalties and enforcement under 88-615. If the use, development, construction or other activity that was a violation under the previous ordinance complies with the express terms of this zoning and development code, enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date specified in 88-10-02. The adoption of this zoning and development code does not affect nor prevent any pending or future prosecution of, or action to abate, violations of the previous ordinance that occurred before the effective date specified in 88-10-02.

**88-25-05 NONCONFORMITIES**

Any nonconformity under the previous zoning ordinance will also be a nonconformity under this zoning and development code, as long as the situation that resulted in the nonconforming status under the previous regulation continues to exist. If, however, a nonconforming situation under previous zoning regulations becomes conforming because of the adoption of this zoning and development code, or any subsequent amendment to it, then the situation will no longer be considered a nonconformity. A situation that did not constitute a nonconforming situation under the previously adopted zoning and development code does not achieve nonconforming status under this zoning and development code merely by repeal of the previous zoning ordinance.

**88-25-06 EXISTING USES**

**88-25-06-A.** When a use classified as a special use under this zoning and development code exists as a special use or permitted use on the effective dates specified in 88-10-02, such use will be considered a lawfully established special use.

**88-25-06-B.** When any amendment to this zoning and development code changes the classification of a permitted use to a special use, any use lawfully established before such amendment will be considered a lawfully established special use after the effective date of such amendment.

**88-25-06-C.** A lawfully established existing use that is not allowed as a special use or permitted use in the district in which the use is now located will be considered a nonconforming use and will be subject to all applicable regulations of Section 88-610.

## 88-25-07 ZONING DISTRICT CONVERSIONS

### 88-25-07-A. DOWNTOWN AREA

The zoning district classifications in effect before the effective dates specified in 88-10-02 are converted as follows within the downtown area, which is the area bounded by the Missouri River on the north; the Kansas-Missouri state line on the west; 31<sup>st</sup> street on the south; and the Paseo on east:

	<b>Previous Zoning District</b>	<b>New Zoning District</b>
	<b>Downtown ►►►</b>	(See Section 88-130)
C-4	Central Business	DC-15
URD	Urban Redevelopment District	UR
R	Any "R" District	->
M	Any "M" District	->
Other	Districts other than C-4, URD, R or M	->
	No existing equivalent	DR
	No existing equivalent	DX

### 88-25-07-B. OTHER AREAS

Except as expressly stated for the downtown area in 88-25-07-A, the zoning district classifications in effect before the effective dates specified in 88-10-02 are converted as follows:

	<b>Previous Zoning District</b>	<b>New Zoning District</b>
	<b>Residential ►►►</b>	(See Section 88-110)
RA	Agricultural	R-80
GPA	Agriculture	R-80
R-1aa	One-family Dwellings	R-10
R-1bb	One-family Dwellings	R-10
GPR1	Residential Low-density	R-10
GP6	Low-density Residential	R-7.5
GPR2	Residential Medium-density	R-7.5
R-1a	One-family Dwellings	R-7.5
GP5	Medium-density Residential	R-6
R-1b	One-family Dwellings	R-6
R-2a	Two-family Dwellings	R-5
R-2b	Two-family Dwellings	R-2.5

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<b>Previous Zoning District</b>			<b>New Zoning District</b>
GP4 R-3 R-4 R-4O R-5 R-5O R-6	High-density Residential	R-2.5	Residential 2.5
	Low-density Low Apartments	R-2.5	Residential 2.5
	Low Apartments	R-1.5	Residential 1.5
	Low Apartments/Admin. Office	R-1.5	Residential 1.5
	High Apartments	R-0.5	Residential 0.5
	High Apartments/Admin. Office	R-0.5	Residential 0.5
	High Apartments Provisional	R-0.3	Residential 0.3
	<b>Business/Commercial ►►►</b>		
O	Office	O-2	(See Section 88-120) Office (dash 2)
OM	Medium-Intensity Office	O-2	Office (dash 2)
CPO-1	Planned Office	O-2	Office (dash 2)
CPO-2	Planned Office	O-2	Office (dash 2)
GPO	Office (General Planned)	O-2	Office (dash 2)
C-1	Neighborhood Retail Business	B1-1	Neighborhood Business 1 (dash 1)
CP-1	Planned Business Center	B1-1	Neighborhood Business 1 (dash 1)
CP-2	Planned Business Center	B2-2	Neighborhood Business 2 (dash 2)
C-2	Local Retail Business	B3-2	Community Business (dash 2)
CP-3	Planned Business Center	B3-2	Community Business (dash 2)
GP-2	General Transient Retail Business	B3-3	Community Business (dash 3)
GP-3	Regional Business (Gen. Planned)	B3-3	Community Business (dash 3)
GPC	Commercial (General Planned)	B3-2	Community Business (dash 2)
C-3a1	Intermediate Business	B4-2	Heavy Business/Commercial (dash 2)
C-3a2	Intermediate Business	B4-5	Heavy Business/Commercial (dash 5)
C-3b	Intermediate Business	B4-5	Heavy Business/Commercial (dash 5)
<b>Manufacturing ►►►</b>			(See Section 88-140)
M1	Light Industry	M1-5	Manufacturing 1 (dash 5)
M2a	Heavy Industry	M1-5	Manufacturing 1 (dash 5)
M-P	Industrial	M2-2	Manufacturing 2 (dash 2)
GP-1	General Industry	M2-3	Manufacturing 2 (dash 3)
M-2b	Heavy Industry	M3-5	Manufacturing 3 (dash 5)
M-3	Heavy Industry-Residual Use	M3-5	Manufacturing 3 (dash 5)
M-R	Materials Reprocessing	M4-4	Manufacturing 4 (dash 4)
<b>Overlay/Special Purpose ►►►</b>			(See 88-200 Series)
CX	Adult Entertainment	CX/O	Adult Entertainment Overlay
SR	Special Review	SR/O	Special Review Overlay
	No existing equivalent	NC/O	Neighborhood Character Overlay
	No existing equivalent	P/O	Pedestrian-Oriented Overlay
	No existing equivalent	H/O	Historic Overlay
MPC	Master Planned Community	SC	Shoal Creek

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	<b>Previous Zoning District</b>	<b>New Zoning District</b>
URD	Urban Redevelopment District	UR
US	Underground Space	US
BBD	Brookside Business District	B-1-P/O
GP7	Agriculture/Low-density Res	AG-R
GP8	Airport and Conservation	KCIA
RPT	Temporary Automobile Parking	NONE
		Eliminated (convert to R-1.5)

**100 SERIES • • BASE ZONING DISTRICTS**

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## **88-110 RESIDENTIAL DISTRICTS**

### **88-110-01 DISTRICTS**

#### **88-110-01-A.LIST**

The city's residential zoning districts are listed below. When this zoning and development code refers to "residential" zoning districts or "R" districts, it is referring to these districts.

<b>Map Symbol</b>	<b>District Name</b>
R-80	Residential 80
R-10	Residential 10
R-7.5	Residential 7.5
R-6	Residential 6
R-5	Residential 5
R-2.5	Residential 2.5
R-1.5	Residential 1.5
R-0.5	Residential 0.5
R-0.3	Residential 0.3

#### **88-110-01-B.DECIPHERING THE NAMES AND MAP SYMBOLS**

The R district names (map symbols) are intended to provide a general indication of what is allowed in the district, with the "R" denoting the residential orientation of the district and the numeral providing a general indication of the allowed density, expressed in terms of the required minimum lot area per dwelling unit (in thousands). The R-7.5 district, for example, is a short-hand reference to a residential district that generally allows one dwelling unit per 7,500 square feet of gross site area.

### **88-110-02 PURPOSE**

Kansas City's residential (R) zoning districts are primarily intended to create, maintain and promote a variety of housing opportunities for individual households and to maintain the desired physical character of existing and developing neighborhoods. While the districts primarily accommodate residential use types, some nonresidential uses are also allowed. The R district standards provide development flexibility, while at the same time helping to ensure that new development is compatible with the city's many neighborhoods. In addition, the regulations offer certainty for property owners, developers and neighbors about the limits of what is allowed.

### **88-110-03 USES**

#### **88-110-03-A.USE TABLE**

Uses are allowed in R zoning districts in accordance with Table 110-1, below.

#### **88-110-03-B.USE CLASSIFICATION SYSTEM**

For the purpose of this zoning and development code, uses are classified into "use groups," "use categories," and "specific use types." These are described and defined in 88-805. The first column of Table 110-1 lists the groups, categories and types allowed in one or more R districts.

**88-110-03-C.PERMitted USES**

Uses identified with a “P” in Table 110-1 are permitted as-of-right in the subject zoning district, subject to compliance with any use standards identified in the final column of the table and all other applicable standards of this zoning and development code.

**88-110-03-D.SPECIAL USES**

Uses identified with an “S” in Table 110-1 may be allowed if reviewed and approved in accordance with the special use permit procedures of Section 88-525. Special uses are subject to compliance with any use standards identified in the final column of the table and all other applicable standards of this zoning and development code.

**88-110-03-E.PROHIBITED USES**

Uses not listed in the table and those identified with a “-” are expressly prohibited.

**88-110-03-F.USE STANDARDS**

The “use standards” column of Table 110-1 identifies use-specific standards that apply to some uses. Compliance with such standards is required regardless of whether the use is permitted as-of-right or requires special use approval.

**88-110-03-G. SPECIAL STANDARDS ADJACENT TO PARKS, BOULEVARDS AND PARKWAYS**

(RESERVED)

**Table 110-1**  
**Residential Districts Use Table**

USE GROUP	ZONING DISTRICT									Use Standards
	R 80	R 10	R 7.5	R 6	R 5	R 2.5	R 1.5	R 0.5	R 0.3	
<b>R E S I D E N T I A L</b>										
Household Living	P	P	P	P	P	P	P	P	P	88-110-06-C
Group Living (except as noted below)	-	-	-	-	-	-	S	S	S	88-350
└ Group homes	-	-	-	-	-	-	P	P	P	88-350
└ Nursing home	S	S	S	S	S	S	P	P	P	88-350
<b>P U B L I C / C I V I C</b>										
College/University	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	88-365
Day Care	P	P	P	P	P	P	P	P	P	
└ Home-based (1-4)	P	P	P	P	P	P	P	P	P	
└ Family (5-10)	S	S	S	S	S	S	P	P	P	88-330-01
└ Group(11-20)	-	-	-	-	-	-	-	-	-	88-330-02
└ Center (21+)	S	-	-	-	-	-	-	-	-	88-335
Detention and Correctional Facilities	-	-	-	-	-	-	-	-	-	
Hospital	-	-	-	-	-	-	-	S	S	
Library/Museum/Cultural Exhibit	P/S	-	-	-	P/S	P/S	P/S	P/S	P/S	88-365
Park/Recreation	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	88-365
Religious Assembly	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	88-365
Safety Service (except as noted below)	S	S	S	S	S	S	S	S	S	88-365
└ Fire station	P	P	P	P	P	P	P	P	P	88-365

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<b>U S E G R O U P</b>		<b>Z O N I N G D I S T R I C T</b>										<b>Use Standards</b>
<b>Use Category</b>	<b>specific use type</b>	R 80	R 10	R 7.5	R 6	R 5	R 2.5	R 1.5	R 0.5	R 0.3		
	Police station	P	P	P	P	P	P	P	P	P	88-365	
<b>School</b>		P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	P/S	88-365	
<b>Utilities and Services</b> (except as noted below)		S	S	S	S	S	S	S	S	S		
	Basic, minor	P	P	P	P	P	P	P	P	P		
<b>C O M M E R C I A L</b>												
<b>Entertainment and Spectator Sports</b>		S	-	-	-	-	-	-	-	-		
<b>Funeral and Interment Service</b>											88-345	
	Cemetery/columbarium/mausoleum	S	S	S	S	S	S	S	S	S	88-345	
	Crematory	S	S	S	S	S	S	S	S	S	88-345	
	Undertaking	-	-	-	-	-	-	-	S	S	88-345	
<b>Lodging</b>												
	Bed and breakfast	S	-	-	-	S	S	S	S	S	88-320	
	Recreational vehicle park	S	-	-	-	-	-	-	-	-		
<b>Neighborhood-serving retail</b>		S	S	S	S	S	S	S	S	S	88-360	
<b>Office, Administrative, Professional or General</b>		-	-	-	-	-	S	S	S	S		
<b>Reuse of officially designated historic landmark (local or national)</b>		S	S	S	S	S	S	S	S	S		
<b>Sports and Recreation, Participant</b>		S	-	-	-	-	-	-	-	-		
<b>I N D U S T R I A L</b>												
<b>Mining and Quarrying</b>		S	-	-	-	-	-	-	-	-		
<b>Waste-Related Use</b> (except as noted below)		-	-	-	-	-	-	-	-	-		
	Demolition debris landfill	S	-	-	-	-	-	-	-	-	88-380	
<b>O T H E R</b>												
<b>Agriculture, Crop</b>		P	P	P	P	P	P	P	P	P		
<b>Agriculture, Animal</b>		P	-	-	-	-	-	-	-	-		
<b>Wireless Communication Facility</b>												
	Freestanding	P	-	-	-	-	-	-	-	-	88-385	
	Co-located antenna	P	P	P	P	P	P	P	P	P	88-385	

#### 88-110-04 RESIDENTIAL BUILDING TYPES

##### 88-110-04-A. RESIDENTIAL BUILDING TYPES ALLOWED

The residential uses allowed in R districts must be located in residential buildings. The following residential building types are allowed in R districts. Many residential building types are subject to supplemental standards, as referenced in 88-110-06-C.

<b>Building Type</b>	<b>R-80</b>	<b>R-10</b>	<b>R-7.5</b>	<b>R-6</b>	<b>R-5</b>	<b>R-2.5</b>	<b>R-1.5</b>	<b>R-0.5</b>	<b>R-0.3</b>
Detached house	P	P	P	P	P	P	P	P	P
Zero lot line house	P	P	P	P	P	P	P	P	P
Cottage house	-	-	P	P	P	P	P	P	P

<b>Building Type</b>	<b>R-80</b>	<b>R-10</b>	<b>R-7.5</b>	<b>R-6</b>	<b>R-5</b>	<b>R-2.5</b>	<b>R-1.5</b>	<b>R-0.5</b>	<b>R-0.3</b>
Attached house									
└ Semi-attached									
└ on corner lots	P[1]	P[1]	P[1]	P	P	P	P	P	
└ in other situations	—	—	—	P	P	P	P	P	
└ Townhouse	—	—	—	P	P	P	P	P	
Two-unit house									
└ on corner lots	P[1]	P[1]	P[1]	P	P	P	P	P	
└ in other situations	—	—	—	P	P	P	P	P	
Multi-unit house	—	—	—	—	P	P	P	P	
Multiple	—	—	—	—	—	P	P	P	
Multi-unit building	—	—	—	—	—	P	P	P	

P = permitted building type    — = prohibited building type

[1] Permitted only in approved open space development or conservation development; subject to 88-110-06-C.4

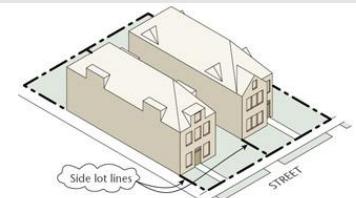
## **88-110-04-B. RESIDENTIAL BUILDING TYPES DEFINED AND REGULATED**

Definitions and regulations for residential building types are as follows:

1. *Detached House* A *detached house* is a principal building containing one dwelling unit located on a single lot with private yards on all sides. *Detached houses* are subject to the lot and building standards of 88-110-06-B (Table 110-2). No more than one *detached house* may be located on a single lot.



2. *Zero Lot Line House* A *zero lot line house* is a principal building containing one dwelling unit located on a single lot. The building is shifted to one side of the lot so that there is a more usable side yard on one side of the house and very little or no private yard on the other side. *Zero lot line houses* are subject to the lot and building standards of 88-110-06-B (Table 110-2) except as modified or supplemented by the zero lot line standards of 88-110-06-C. No more than one *zero lot line house* may be located on a single lot.



3. *Cottage House* A small *detached house* that is grouped with other cottages around a shared open space. *Cottage houses* are subject to the lot and building standards of 88-110-06-B (Table 110-2) except as modified or supplemented by the *cottage house* development standards of 88-110-06-C. Multiple *cottage houses* may be located on a single lot, subject to the limitation of 88-110-06-C.



4. *Attached House* A building containing multiple dwelling units, each located on its own lot with a common or abutting wall along shared lot lines. Each dwelling unit has its own external entrance. There are two types of attached houses: semi attached houses and townhouses. Attached houses are subject to the lot and building standards of 88-110-06-B (Table 110-2) except as modified or supplemented by the attached house standards of 88-110-06-C. No more than one attached house may be located on a single lot.

A semi-attached house is an attached house building containing 2 dwelling units.



A townhouse is an attached house building containing 3 or more dwelling units.



5. *Two-unit House* A two-unit house is a building containing 2 dwelling units, both of which are located on a single lot or parcel (also referred to as a "duplex" or "two-flat"). The dwelling units are attached and may be located on separate floors or side-by-side. Two-unit houses are subject to the lot and building standards of 88-110-06-B (Table 110-2) except as modified or supplemented by the two-unit house standards of 88-110-06-C. No more than one two-unit house may be located on a single lot.



6. *Multi-unit House* A multi-unit house is a building containing 3 to 8 dwelling units located on a single lot. Multi-unit houses appear as large detached houses and have only one entrance visible from the street. Multi-unit houses are subject to the lot and building standards of 88-110-06-B (Table 110-2) except as modified or supplemented by the multi-unit house standards of 88-110-06-C. More than one multi-unit house may be located on a single lot, subject



*to compliance with all applicable lot and building standards.*

7. *Multiplex* A *multiplex* is a building containing 3 to 8 dwelling units, each of which has its own external entrance. *Multiplexes are subject to the lot and building standards of 88-110-06-B (Table 110-2) except as modified by the multiplex standards of 88-110-06-C. More than one multiplex may be located on a single lot, subject to compliance with all applicable lot and building standards and subject to site plan review*



8. *Multi-unit building* A *multi-unit building* is a building containing 3 or more dwelling units (other than a multiplex or multi-unit house) that share common walls and/or common floors/ceilings. *Multi-unit buildings are typically served by one or more common building entrances. Multi-unit buildings are subject to the lot and building standards of 88-110-06-B (Table 110-2) except as modified or supplemented by the Multi-unit building standards of 88-110-06-C. More than one multi-unit building may be located on a single lot, subject to compliance with all applicable lot and building standards.*



## **88-110-05 DEVELOPMENT OPTIONS**

Different development options are offered in R districts to accommodate a variety of community and lifestyle choices. The options described in this section may be used at the property owner's election.

### **88-110-05-A. CONVENTIONAL DEVELOPMENT**

"Conventional development" is any development that is not part of an approved open space development or conservation development. Lot and building standards for conventional development can be found in 88-110-06-B (Table 110-2).

### **88-110-05-B. OPEN SPACE DEVELOPMENT**

The open space development option allows smaller lots and other flexible lot and building standards in exchange for the provision of common open space that is not typically provided in a conventional development. Lot and building standards for open space development can be found in 88-110-06-B (Table 110-2). Additional open space development standards are included in 88-410.

### **88-110-05-C. CONSERVATION DEVELOPMENT**

The conservation development option allows even greater flexibility in exchange for the provisions of a greater amount of common open space than required for open space developments. Lot and building standards for conservation development can be found in 88-110-06-B (Table 110-2). Additional conservation development standards are included in 88-410.

**88-110-06 LOT AND BUILDING STANDARDS****88-110-06-A.GENERAL**

This section establishes basic lot and building standards for all development in R districts. The standards vary based on zoning classification, building type and development type. These standards are not to be interpreted as a guarantee that allowed densities and development yields can be achieved on every lot. Other factors, such as off-street parking requirements, central water and wastewater service availability, and others may limit development more than these standards.

**88-110-06-B.BASIC STANDARDS**

All residential and nonresidential development in R districts must comply with the lot and building standards of Table 110-2, except as otherwise expressly provided by the building type-specific standards of 88-110-06-C. Nonresidential development in R districts must comply with the "conventional" development standards of Table 110-2. General exceptions to lot and building standards and rules for measuring compliance can be found in 88-820.

**Table 110-2  
Lot and Building Standards**

	R-80	R-10	R-7.5	R-6	R-5	R-2.5	R-1.5	R-0.5	R-0.3
<b>C O N V E N T I O N A L D E V ' T</b>									
<b>Lot Size</b>									
└Min. lot area (square feet)	80,000	10,000	7,500	6,000	5,000	4,000	3,000	3,000	2,500
└Min. lot area per unit (sq. ft.)	80,000	10,000	7,500	6,000	5,000	2,500	1,500	500	300
└Min. lot width (feet)	150	85	50	50	45	40	30	30	25
<b>Front Setback [1]</b>									
└Minimum (% of lot depth)	25	25	25	25	25	25	15	15	15
└Min. garage (% of lot depth)	25	25	25	25	25	25	20	20	20
└Maximum required (ft)	40	30	30	30	25	25	20	20	20
<b>Rear Setback</b>									
└Minimum (% of lot depth)	25	25	25	25	25	25	25	25	25
└Maximum required (ft)	50	30	30	30	30	25	25	25	25
<b>Side Setback</b>									
└Min. each side (% lot width)	10	10	10	10	10	10	10	10	10
└Maximum required (feet)	8	8	8	8	8	8	8	8	8
└Min. abutting major street (ft)	15	15	15	15	15	15	15	15	15

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<b>Table 110-2 Lot and Building Standards</b>	<b>R-80</b>	<b>R-10</b>	<b>R-7.5</b>	<b>R-6</b>	<b>R-5</b>	<b>R-2.5</b>	<b>R-1.5</b>	<b>R-0.5</b>	<b>R-0.3</b>
<b>Height (feet)</b>									
└ Maximum	35	35	35	35	35	40	45	120	200
<b>OPEN SPACE DEV'T</b>									
<b>Overall Site</b>									
└ Min. open space (% of site)	30	30	30	30	30	30	30	30	30
└ Min. area per unit (sq. ft.)	72,000	9,000	6,750	5,400	4,500	2,750	1,350	450	270
<b>Lot Size</b>									
└ Min. lot area (square feet)	12,000	7,500	6,000	5,000	3,750	3,000	2,500	2,500	2,500
└ Min. lot width (feet)	100	75	50	45	35	25	25	25	25
<b>Front Setback</b>									
└ Minimum (% of lot depth)	20	15	15	15	15	15	15	15	15
└ Min. garage (% of lot depth)	25	25	25	25	25	20	20	20	20
└ Maximum required (ft)	25	25	25	25	25	20	20	20	20
<b>Rear Setback</b>									
└ Minimum (% of lot depth)	25	25	25	25	25	25	25	25	25
└ Maximum required (ft)	50	30	30	30	30	25	25	25	25
<b>Side Setback</b>									
└ Min. each side (% lot width)	10	10	10	10	10	10	10	10	10
└ Maximum required (feet)	8	8	8	8	8	8	8	8	8
└ Min. abutting major street (ft)	15	15	15	15	15	15	15	15	15
<b>Height (feet)</b>									
└ Maximum	35	35	35	35	35	40	45	120	200
<b>CONSERVATION DEV'T</b>									
<b>Overall Site</b>									
└ Min. open space (% of site)	60	60	60	60	60	60	60	60	60
└ Min. area per unit (sq. ft.)	64,000	8,000	6,000	4,800	4,000	2,000	1,200	400	240
<b>Lot Size</b>									
└ Min. lot area	9,600	3,200	2,500	2,500	2,500	2,500	2,500	2,500	2,500

<b>Table 110-2 Lot and Building Standards</b>	<b>R-80</b>	<b>R-10</b>	<b>R-7.5</b>	<b>R-6</b>	<b>R-5</b>	<b>R-2.5</b>	<b>R-1.5</b>	<b>R-0.5</b>	<b>R-0.3</b>
(square feet)									
└Min. lot width (feet)	85	50	45	35	30	25	25	25	25
<b>Front Setback</b>									
└Minimum (% of lot depth)	20	15	15	15	15	15	15	15	15
└Min. garage (% of lot depth)	25	25	25	25	25	20	20	20	20
└Maximum required (ft)	25	25	25	25	25	20	20	20	20
<b>Rear Setback</b>									
└Minimum (% of lot depth)	25	25	25	25	25	25	25	25	25
└Maximum required (ft)	50	30	30	30	30	25	25	25	25
<b>Side Setback</b>									
└Min. each side (% lot width)	10	10	10	10	10	10	10	10	10
└Maximum required (feet)	8	8	8	8	8	8	8	8	8
└Min. abutting major street (ft)	15	15	15	15	15	15	15	15	15
<b>Height (feet)</b>									
└Maximum	35	35	35	35	35	40	45	120	200

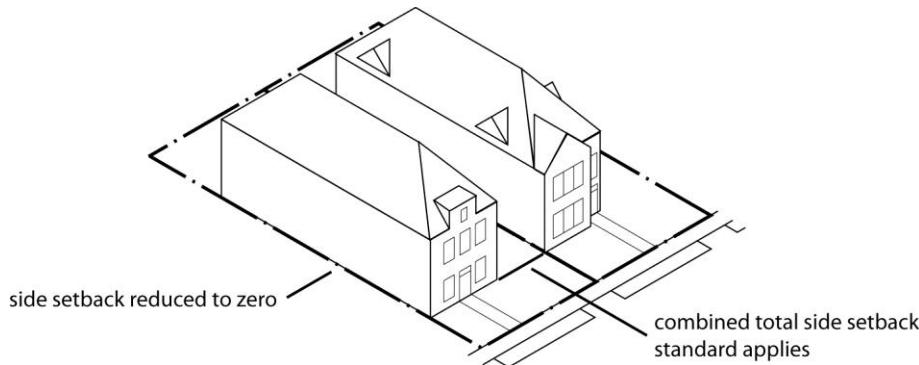
[1] Minimum street side setback is 50% of required front setback.

## 88-110-06-C.BUILDING-TYPE SPECIFIC STANDARDS

### 1. ZERO LOT LINE HOUSES

Zero lot line houses are subject to the standards of 88-110-06-B (*Table 110-2*), except as expressly modified by the following zero lot line house standards:

- (a) Zero lot line building arrangements require that the planning for all house locations be done at the same time. Because the exact location of each house is predetermined, greater flexibility in site planning is possible, while ensuring that neighborhood character is maintained.
- (b) The side setback on one side of the lot may be reduced to as little as zero. The zero-setback side may not abut a street or a lot that is not part of the zero lot line development. The minimum combined side setback requirements of 88-110-06-B apply on the “non-zero” side, which means that a lot with a zero side setback on one side must provide a setback equal to at least 20% of the lot width on the opposite side of the lot.



- (c) Eaves on the side of a house with a reduced setback may project over the abutting lot line only if a perpetual eave overhang easement at least 5 feet in width is provided on the lot abutting the zero lot line property line, which, with the exception of walls and/or fences, must be kept clear of structures. The easement must be shown on the plat and incorporated into each deed transferring title on the property.
- (d) When the zero lot line house's exterior wall or eaves are set back less than 2 feet from the abutting side lot line, a perpetual maintenance easement at least 5 feet in width must be provided on the lot abutting the zero lot line property line, which, with the exception of walls and/or fences, must be kept clear of structures. The easement must be shown on the plat and incorporated into each deed transferring title on the property. This provision is intended to ensure the ability to conduct maintenance and upkeep activities on the zero lot line house.
- (e) Windows or other openings that allow for visibility into the side yard of the lot abutting the zero-setback side lot are not allowed on zero lot line houses. Windows that do not allow visibility into the side yard of the abutting lot, such as clerestory windows or translucent windows, are allowed, subject to compliance with the building code.

## 2. COTTAGE HOUSE

Cottage house developments are subject to the standards of 88-110-06-B (*Table 110-2*), except as expressly modified by the following cottage house development standards:

### (a) DEVELOPMENT SIZE

Cottage house developments must contain at least 4 and no more than 12 cottage houses. A development site may contain more than one cottage house development.

### (b) LOT SIZE

- (1) In the R-7.5, R-6 and R-5 districts the minimum required lot area per cottage unit is 50% of the minimum lot area per unit standard of 88-110-06-B (*Table 110-2*).

- (2) In the R-2.5 district the minimum required lot area per cottage unit is 75% of the minimum lot area per unit standard of 88-110-06-B (*Table 110-2*).
- (3) In the R-1.5, R-0.5 and R-0.3 districts the minimum lot area per unit standard of 88-110-06-B (*Table 110-2*) applies.

**(c) FLOOR AREA**

- (1) The total floor area of each cottage may not exceed either 1.5 times the area of the main floor or 1,250 square feet, whichever is less. Attached garages are counted in the calculation of total floor area.
- (2) The maximum main floor area for cottages is 850 square feet. For the purposes of this calculation, the area of interior stairways may be allocated between floors served.

**(d) SETBACKS AND BUILDING SEPARATION**

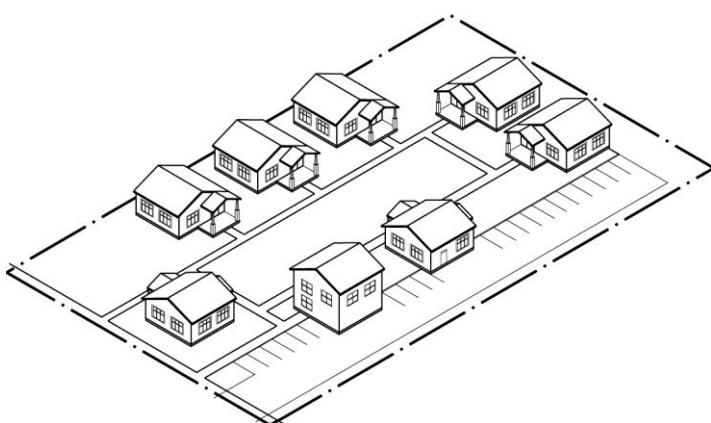
All structures within cottage house developments must be set back at least 15 feet from property lines abutting streets and 10 feet from other property lines along the outer perimeter of the cottage house development site. When vehicular access to a cottage housing development is from an alley, a 4-foot minimum rear setback is allowed. All buildings within the cottage house development must be separated by a minimum distance of 10 feet.

**(e) BUILDING HEIGHT**

Cottage houses may not exceed 18 feet in height, except that pitched roofs with a minimum pitch of 6:12 may extend up to 25 feet in height. All parts of a roof above 18 feet in height must be pitched.

**(f) OPEN SPACE**

Cottage house developments must include at least 200 square feet of common open space per cottage. At least 50% of the cottages in a cottage housing development must abut common open space and the common open space must have cottages abutting on at least 2 sides. All cottages must be located within 60 feet walking distance of the common open space.



Each cottage unit must have 150 square feet of private, contiguous, usable open space adjacent to each dwelling unit, for the exclusive use of the

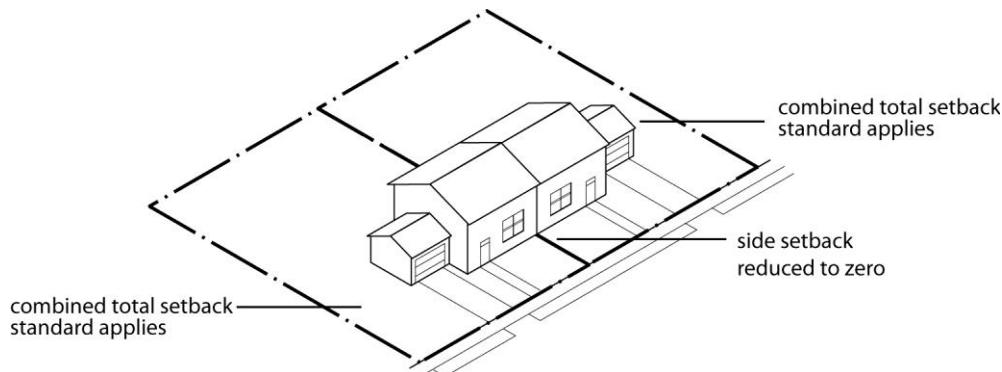
cottage resident. Such private open space must be oriented toward the common open space as much as possible, with no dimension less than 10 feet.

All cottages must have a roofed porch at least 80 square feet in area with a minimum dimension of 8 feet on any side.

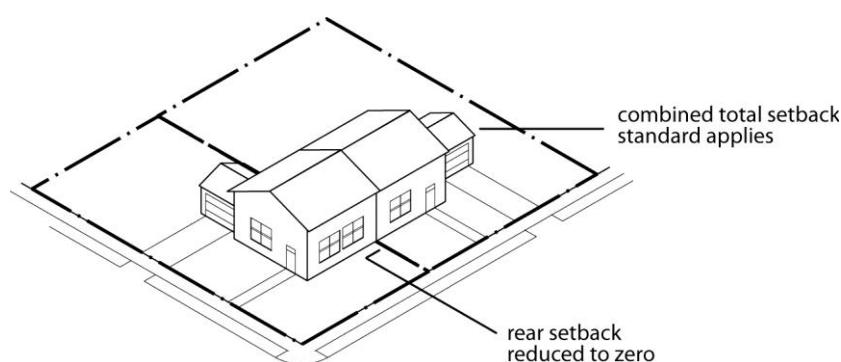
### 3. ATTACHED HOUSE

Attached houses are subject to the standards of 88-110-06-B (*Table 110-2*), except as expressly modified or supplemented by the following attached house standards.

- (a) The minimum lot width for an attached house is 18 feet.
- (b) The minimum lot area per unit requirements of 88-110-06-B (*Table 110-2*) apply to attached house projects on a project-wide basis, meaning that the total area of the attached house site, including common areas comprising up to 20% of the overall site, may be counted as lot area. Common areas may include commonly owned open space, access drives and parking areas. Such common areas may also be included in setback calculations.
- (c) No side setback is required for common or abutting walls. The minimum total (combined) side setback standard of *Table 110-2* (88-110-06-B) applies along the sides of the building that do not have common or abutting walls.



- (d) Common or abutting walls must be shared for at least 50% of their length.
- (e) On corner lots, either the rear setback or side setback may be reduced to zero. However, the remaining side or rear setback must comply with the standards of *Table 110-2*.



- (f) The minimum total (combined) side setback standard of *Table 110-2* applies along the sides of the building that do not have common or abutting walls.
- (g) The front facade of any attached house may not include more than 40% garage wall area.
- (h) Townhouse buildings may not contain more than 9 attached dwelling units.

**4. TWO-UNIT HOUSES AND SEMI-ATTACHED HOUSES ON CORNER LOTS**

Under the conventional development option, two-unit houses and semi-attached houses are subject to the standards of *Table 110-2* (88-110-06-B). In approved open space or conservation developments two-unit houses and semi-attached houses are allowed on corner lots in all R districts except R-80. In R-10, R-7.5 and R-6 districts they are subject to the following additional standards.

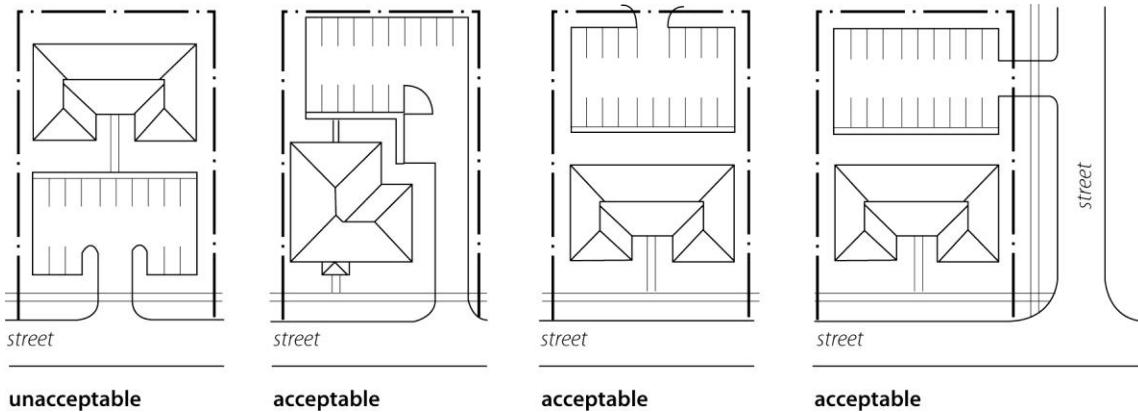
- (a) Two-unit houses and semi-attached houses are allowed on corner lots in situations in which such building types would not otherwise be allowed because they can be designed so each unit is oriented towards a different street. This gives the two-unit house and the semi-attached house the overall appearance of a detached house when viewed from either street.
- (b) The corner lot must comply with the minimum lot area standard of the subject zoning district. No lot with less than 3,000 square feet of lot area may be used for the corner lot option.
- (c) Each dwelling unit within the two-unit house or semi-attached house must have its address and main entrance oriented towards a separate street frontage. Conversion of an existing detached house may provide one main entrance with internal access to both units.

**5. MULTI-UNIT HOUSE**

Multi-unit houses are subject to the standards of *Table 110-2* (88-110-06-B) except as expressly modified or supplemented by the following standards.

- (a) The street-facing façade of a multi-unit house may have only one visible entrance to the building. If the building is located on a corner lot, one building entrance may be visible from each street.
- (b) Visible building entrances must be clearly emphasized by any one of the following means:
  - (1) covered porch or canopy;
  - (2) transom and sidelight windows;
  - (3) pilasters and pediment; or
  - (4) other significant architectural treatment that emphasizes the entrance.  
(Simple trim around the doorway does not meet this standard)
- (c) Patio-style doors, such as sliding glass doors, may not be used for main entrance doors.

- (d) A pedestrian circulation system must be provided that connects residential entrances to adjacent public rights-of-way and to parking areas and other on-site facilities.
- (e) Surface parking and parking within accessory structures must be located behind the front building line and otherwise concealed from view of abutting streets. Parking areas may not be located directly between the principal building and the street or within any required side setback area. Any portion of a parking area that is visible from an abutting street must comply with the perimeter landscaping requirements of 88-425-05.



- (f) The front facade of new multi-unit houses may not exceed 40 feet in width. Buildings may exceed this limitation if the street-facing plane of the building is broken into horizontal modules that comply with the following standards:
  - (1) Each module must be no greater than 30 feet and no less than 10 feet in width and must be distinguished from adjacent modules by a change in the wall plane of at least 16 inches in depth. For buildings that are 3 or more stories in height, the width of the module may be increased to 40 feet.
  - (2) Each module must have a corresponding change in the roofline.
  - (3) Each module must be distinguished from the adjacent module by at least one of the following means:
    - a. changes in material colors, types or textures;
    - b. changes in the building and/or parapet height;
    - c. changes in the architectural details such as decorative banding, reveals, stone, or tile accents;
    - d. change in window pattern; and
    - e. the use of balconies and recesses.

## 6. MULTI-UNIT BUILDINGS

Multi-unit buildings (i.e., buildings containing 3 or more dwelling units, other than multiplexes or multi-unit houses) are subject to the standards of 88-110-06-B (*Table 110-2*) except as modified or supplemented by the following standards.

- (a) Visible building entrances to dwelling units on the ground floor must be clearly emphasized by any one of the following means:

- (1) covered porch or canopy;
- (2) transom and sidelight windows;
- (3) pilasters and pediment; or
- (4) other significant architectural treatment that emphasizes the entrance.  
(Simple trim around the doorway does not meet this standard)
- (b) Patio-style doors, such as sliding glass doors, may not be used for main entrance doors.
- (c) A pedestrian circulation system must be provided that connects residential entrances to adjacent public rights-of-way and to parking areas and other on-site facilities.
- (d) Surface parking and parking within accessory structures must be located behind front building line or otherwise screened from view of abutting streets. Parking areas may not be located directly between the principal building and the street or within any required side setback area. Any portion of a parking area that is visible from an abutting street must comply with the perimeter landscaping requirements of 88-425-05.
- (e) Street-facing walls that are greater than 50 feet in length must be articulated with bays, projections, recesses or other design elements that effectively break-up the mass of the building.

## **88-120 OFFICE, BUSINESS AND COMMERCIAL DISTRICTS**

### **88-120-01 DISTRICTS**

#### **88-120-01-A.LIST**

The city's office, business and commercial zoning districts are listed below. When this zoning and development code refers to "office" or "business" zoning districts or "O" or "B" districts, respectively, it is referring to these districts.

<b>Map Symbol</b>	<b>District Name</b>
O	Office
B1	Neighborhood Business 1
B2	Neighborhood Business 2
B3	Community Business
B4	Heavy
	Business/Commercial4

#### **88-120-01-B. DECIPHERING THE NAMES AND MAP SYMBOLS**

The map symbols and district names shown above provide only a general, relative indication of the types and scale of uses allowed within respective districts. When these districts are identified on the zoning map they will include at least one other essential information component: an intensity designator, which will be identified by a dash and a numeral following the initial letter or letter-number combination, as in B2-2 (B2 dash 2).

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The intensity designator establishes the allowable intensity of development and applicable lot and building standards (see also 88-120-04).

## **88-120-02 PURPOSE**

### **88-120-02-A.GENERAL**

Kansas City's office (O) and business (B) zoning districts are primarily intended to accommodate office, retail, service, business and commercial uses and to ensure that O-and B- zoned areas are compatible with their surroundings in terms of physical character and operating characteristics.

### **88-120-02-B.O, OFFICE DISTRICTS**

O zoning districts are primarily intended to accommodate professional and administrative office uses.

### **88-120-02-C.B, BUSINESS DISTRICTS**

B zoning districts are primarily intended to accommodate and promote neighborhood- and community-serving retail sales or service uses, as well as mixed-use development consisting of business uses on a building's lower floors and residential uses on upper floors. This type of vertical, mixed-use development is encouraged in many areas of the city because it reflects the city's traditional urban, pedestrian-oriented character. Encouraging residential development in mixed-use zoning districts also provides increased housing choice and opportunities to promote higher density housing. The B districts are distinguished primarily on the basis of allowed uses and commercial floor area limits. The B4 district is primarily intended to accommodate "heavier" commercial activities and/or outdoor operations that are typically not found in or compatible with mixed-use or neighborhood-oriented environments.

## **88-120-03 USES**

### **88-120-03-A.USE TABLE**

Uses are allowed in O and B zoning districts in accordance with Table 120-1, below.

### **88-120-03-B.USE CLASSIFICATION SYSTEM**

For the purpose of this zoning and development code, uses are classified into "use groups," "use categories," and "specific use types." These are described and defined in 88-805. The first column of Table 120-1 lists the groups, categories and types allowed in one or more O or B districts.

### **88-120-03-C.PERMITTED USES**

Uses identified with a "P" in Table 120-1 are permitted as-of-right in the subject zoning district, subject to compliance with any use standards identified in the final column of the table and all other applicable standards of this zoning and development code.

### **88-120-03-D.SPECIAL USES**

Uses identified with an "S" in Table 120-1 may be allowed if reviewed and approved in accordance with any special use permit procedures of Article 88-525. Special uses are subject to compliance with the use standards identified in the final column of the table and all other applicable standards of this zoning and development code.

**88-120-03-E. PROHIBITED USES**

Uses not listed in the table and those identified with a “–” are expressly prohibited.

**88-120-03-F. USE STANDARDS**

The “use standards” column of Table 120-1 identifies use-specific standards that apply to some uses. Compliance with such standards is required regardless of whether the use is permitted as-of-right or requires special use approval.

**88-120-03-G. SPECIAL STANDARDS ADJACENT TO PARKS, BOULEVARDS AND PARKWAYS**

(RESERVED)

**Table 120-1****Office, Business and Commercial Districts Use Table**

USE GROUP	Use Category └ specific use type	ZONING DISTRICT					Use Standards
		O	B1	B2	B3	B4	
<b>R E S I D E N T I A L</b>							
<b>Household Living</b>							
└ In single-purpose residential building	–	P	P	P	P		
└ above ground floor (in mixed-use building)	P	P	P	P	P		
<b>Group Living</b>		P	P	P	P	P	
<b>P U B L I C / C I V I C</b>							
<b>College/University</b>		P	P	P	P	P	
<b>Day Care</b>		P	P	P	P	P	
└ Home-based (1-4)	P	P	P	P	P		
└ Family (5-10)	P	P	P	P	P		
└ Group(11-20)	P	P	P	P	P		
└ Center (21+)	P	P	P	P	P		
<b>Hospital</b>		S	–	–	P	P	
<b>Library/Museum/Cultural Exhibit</b>		P	P	P	P	P	
<b>Park/Recreation</b>		P	P	P	P	P	
<b>Religious Assembly</b>		P	P	P	P	P	
<b>Safety Service</b>		P	P	P	P	P	
└ Fire station	P	P	P	P	P		
└ Police station	P	P	P	P	P		
└ Ambulance service	S	S	S	P	P		
<b>School</b>		P	P	P	P	P	
<b>Utilities and Services</b> (except as noted below)		S	S	S	S	S	
└ Basic, minor	P	P	P	P	P		
<b>C O M M E R C I A L</b>							
<b>Adult Business</b>		–	–	P	P	P	88-310-03
└ Adult media store	–	–	–	P	P		88-310-02
└ Adult motion picture theater	–	–	–	P	P		88-310-02
└ Sex shop	–	–	–	P	P		
<b>Animal Service</b>		–	P	P	P	P	88-315
└ Sales and grooming	–	P	P	P	P		

USE GROUP	ZONING DISTRICT					Use Standards
Use Category	O	B1	B2	B3	B4	
└ specific use type						
└ Shelter or boarding	—	—	P	P	P	88-315
└ Veterinary	—	—	P	P	P	88-315
└ Stable	—	—	—	—	S	88-315
<b>Artist Work or Sales Space</b>	—	P	P	P	P	
<b>Building Maintenance Service</b>	—	—	—	P	P	
<b>Business Equipment Sales and Service</b>	—	—	P	P	P	
<b>Business Support Service</b> (except as noted below)	—	—	P	P	P	
└ Day labor employment agency	—	—	—	—	S	88-331
<b>Communications Service Establishments</b>	P	—	P	P	P	
<b>Drive-Through Facility</b>	—	—	P	P	P	88-340
<b>Eating and Drinking Establishments</b> (except as noted below)	P	P	P	P	P	
└ Tavern or nightclub	—	—	P	P	P	
<b>Entertainment and Spectator Sports</b>						
└ Indoor small venue (1–149 capacity)	—	—	S	P	P	
└ Indoor medium venue (150–499 capacity)	—	—	—	P	P	
└ Indoor large venue (500+ capacity)	—	—	—	S	P	
└ Outdoor (all sizes)	—	—	—	S	P	
<b>Financial Services</b> (except as noted below)	S	P	P	P	P	
└ Check-cashing, short-term loan/title loan establishment	—	—	S	S	S	88-325
└ Pawn shop	—	—	S	S	P	
<b>Food and Beverage Retail Sales</b>	—	P	P	P	P	
<b>Funeral and Interment Service</b>						
└ Cemetery/columbarium/mausoleum	S	S	S	S	S	88-345
└ Cremating	—	S	S	S	S	88-345-02
└ Undertaking	—	S	P	P	P	88-345
<b>Gasoline and Fuel Sales</b>	—	S	S	S	P	
<b>Lodging</b>						
└ Bed and Breakfast	—	P	P	P	P	
└ Hotel/motel	—	—	—	P	P	
└ Recreational vehicle park	—	—	—	S	S	
<b>Office, Administrative, Professional or General</b>	P	P	P	P	P	
<b>Office, Medical</b>	P	P	P	P	P	
└ Blood/plasma center	—	—	—	S	S	
<b>Parking, Non-accessory</b>	—	—	S	P	P	
<b>Personal Improvement Service</b>	P	P	P	P	P	
<b>Repair or Laundry Service, Consumer</b>	—	P	P	P	P	
<b>Research Service</b>	P	P	P	P	P	
<b>Retail Sales</b>	—	P	P	P	P	
<b>Sports and Recreation, Participant</b>						
└ Indoor	—	P	P	P	P	
└ Outdoor	—	—	—	P	P	

<b>U S E   G R O U P</b>	<b>Z O N I N G D I S T R I C T</b>					<b>U s e S t a n d a r d s</b>
	<b>O</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	
<b>Use Category</b>						
└ specific use type						
<b>Vehicle Sales and Service</b> (except as noted below)	—	—	—	P	P	
└ Car wash/cleaning service	—	—	S	P	P	
└ Heavy equipment sales/rental	—	—	—	S	P	
└ Light equipment sales/rental (indoor)	—	—	P	P	P	
└ Light equipment sales/rental (outdoor)	—	—	S	S	P	
└ Motor vehicle repair, limited	—	—	S	P	P	
└ Motor vehicle repair, general	—	—	—	S	P	
└ Vehicle storage/towing	—	—	—	—	P	88-375
<b>I N D U S T R I A L</b>						
<b>Manufacturing, Production and Industrial Service</b>						
└ Artisan	—	—	—	—	P	
└ Limited	—	—	—	—	S	
└ General	—	—	—	—	S	
<b>Recycling Service</b>						
└ Limited	—	—	—	—	S	
<b>Residential Storage Warehouse</b>						
<b>Warehousing, Wholesaling, Freight Movement</b>						
└ Indoor	—	—	—	—	P	
└ Outdoor	—	—	—	—	—	
<b>O T H E R</b>						
<b>Agriculture, Crop</b>	P	P	P	P	P	
<b>Wireless Communication Facility</b>						
└ Freestanding	—	—	P	P	P	88-385
└ Co-located antenna	P	P	P	P	P	88-385

## 88-120-04 LOT AND BUILDING STANDARDS

### 88-120-04-A.GENERAL

This section establishes basic lot and building standards for all development in O and B districts. The standards that apply vary according to the intensity designator that is attached to the zoning district symbol. These intensity designators are identified by the numeral following the dash (-) in the district name, as in "B1-2" (B1 dash 2).

### 88-120-04-B.BASIC STANDARDS

All residential and nonresidential development in O and B districts must comply with the lot and building standards of Table 120-2, except as otherwise expressly provided. General exceptions to lot and building standards and rules for measuring compliance can be found in 88-820.

<b>Table 120-2 Lot and Building Standards (O and B Districts)</b>	<b>-1</b>	<b>-2</b>	<b>-3</b>	<b>-4</b>	<b>-5</b>
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<b>Lot Size</b>	
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**Table 120-2**  
**Lot and Building Standards (O and B Districts)**

-1      -2      -3      -4      -5

└ Min. lot area (square feet)	None	None	None	None	None
└ Min. lot area per unit (sq. ft.)					
└ in single purpose residential building	1,250	750	400	300	200
└ above ground floor in mixed-use building	None	None	None	None	None
└ Min. lot width (feet)	None	None	None	None	None
<b>Floor Area Ratio</b>					
└ Maximum	1.4	2.2	3.0	4.0	5.0
<b>Min. Front Setback [1]</b>					
└ Abutting residential district	[1]	[1]	[1]	[1]	[1]
└ Not abutting R district	None	None	None	None	None
<b>Min. Rear Setback</b>					
└ Abutting residential district	25	25	25	25	25
└ % of lot depth	30	30	30	30	30
└ Maximum required (feet)	None	None	None	None	None
└ Not abutting R district					
<b>Side Setback</b>					
└ Abutting residential district	[2]	[2]	[2]	[2]	[2]
└ Not abutting R district	None	None	None	None	None
<b>Maximum Height</b>					
└ Building with ground floor commercial space[3]	40	50	60	70	None
└ Building without ground floor commercial space	35	45	55	65	None

#### Notes to Table 120-2

- [1] Front setback required only when O- or B-zoned lot abuts R-zoned lot with frontage on the same street. In such cases, the O- or B-zoned lot must match the actual front setback of the building that exists on the abutting R-zoned lot, or if no building exists on the abutting R-zoned lot, the O- or B-zoned lot must provide at least 50% of the front setback that applies to the abutting R-zoned lot.
- [2] Side setback required only when an O- or B-zoned lot abuts R-zoned lots. In such cases, the O- or B-zoned lot must provide the same side setback as required for the abutting R-zoned lot.
- [3] Ground-floor commercial space must comply with 88-120-07.

### 88-120-05 FLOOR AREA LIMITS FOR COMMERCIAL ESTABLISHMENTS

#### 88-120-05-A.B1 DISTRICT

Commercial establishments in B1 districts may not include more than 10,000 square feet of gross floor area on any single floor, except that food stores (groceries) may include up to 25,000 square feet of gross floor area on a single floor.

#### 88-120-05-B.B2 DISTRICT

Commercial establishments in B2 districts may not include more than 25,000 square feet of gross floor area on any single floor, except that food stores (groceries) may include up to 45,000 square feet of gross floor area on a single floor.

### **88-120-05-C.B3 DISTRICT**

No floor area limit applies to commercial establishments in B3 districts, except that commercial establishments with more than 75,000 square feet for gross floor area on a single floor must be reviewed and approved in accordance with the major site plan review procedures of 88-530.

### **88-120-06 FLOOR AREA LIMITS FOR INDUSTRIAL ESTABLISHMENTS**

The gross floor area of allowed industrial establishments in the B4 district may not exceed 25,000 square feet.

### **88-120-07 GROUND-FLOOR COMMERCIAL FLOOR SPACE**

In all B districts, the minimum floor-to-ceiling height of all ground floor space, other than allowed residential floor space or parking areas, must be at least 13 feet and contain the following minimum floor area:

**88-120-07-A.**at least 800 square feet or 25% of the lot area (whichever is greater) on lots with lot frontage of less than 50 feet (as measured along the shorter lot frontage on lots containing multiple frontages); or

**88-120-07-B.**at least 20% of the lot area on lots with 50 feet of lot frontage or more (as measured along the shorter lot frontage on lots containing multiple frontages).

### **88-120-08 INDOOR/OUTDOOR OPERATIONS**

#### **88-120-08-A.O AND B DISTRICTS**

All allowed office, business, service and commercial activities in O and B zoning districts must be conducted within completely enclosed buildings unless otherwise expressly stated. This requirement does not apply to off-street parking or loading areas, automated teller machines, outdoor dining areas or any drive-through facilities that may be allowed in such districts. It is also not intended to prohibit the outdoor display of plants, flowers, produce or similar goods intended for retail sale.

## **88-130 DOWNTOWN DISTRICTS**

### **88-130-01 DISTRICTS**

#### **88-130-01-A.LIST**

The city's downtown zoning districts are listed below. When this ordinance refers to downtown zoning districts or "D" districts, it is referring to these districts.

<b>Map Symbol</b>	<b>District Name</b>
DC	Downtown Core
DX	Downtown Mixed-Use
DR	Downtown Residential

### **88-130-01-B. DECIPHERING THE NAMES AND MAP SYMBOLS**

The map symbols and district names shown above provide only a general, relative indication of the types and scale of uses allowed within respective districts. When these districts are identified on the zoning map they will include at least one other essential information component: an intensity designator, which will be identified by a dash and a numeral following the initial letter-number combination, as in DX-5 (DX dash 5). The intensity designator establishes the allowable intensity of development and applicable lot and building standards (see also 88-130-05).

### **88-130-02 PURPOSE**

#### **88-130-02-A. GENERAL**

The general purposes of the downtown (D) districts are to:

1. implement the goals and policies of the Downtown Land Use and Development Plan;
2. maintain and enhance the downtown core as a high-intensity, mixed-use center;
3. attract a mix of residential and neighborhood-serving uses in the areas adjacent to the downtown core;
4. create and enhance pedestrian-oriented streets to preserve retail vitality and enhance the quality of life for downtown residents, workers and visitors;
5. establish standards for building facades, ground floor uses, and parking that enhance the vitality and appeal of the downtown area; and
6. provide a streamlined review and approval process for development proposals that are consistent with the Downtown Land Use and Development Plan.

#### **88-130-02-B. DC, DOWNTOWN CORE**

The DC, Downtown Core district is primarily intended to promote high-intensity office and employment growth within the downtown core. The DC district regulations recognize and support downtown's role as a center of regional importance and as a primary hub for business, communications, office, government, retail, cultural, educational, visitor accommodations, and entertainment. The district regulations are primarily intended to accommodate a broad mix of office, commercial, public, recreation, and entertainment uses. The DC district also accommodates residential development, both in a stand-alone high-density form and mixed with office and retail uses.

#### **88-130-02-C.DX, DOWNTOWN MIXED-USE**

The DX, Downtown Mixed-Use district is primarily intended to accommodate office, commercial, custom manufacturing, public, institutional and residential development, generally at lower intensities than in the DC district. The DX district promotes a mix of land uses both horizontally (i.e., adjacent to one another) and vertically (i.e., within the same building).

#### **88-130-02-D.DR, DOWNTOWN RESIDENTIAL**

The DR, Downtown Residential district is primarily intended to accommodate residential development and small-scale commercial uses on lower floors, with residential units above.

**88-130-03 ELIGIBILITY FOR D ZONING**

“D” zoning may be applied only within the area bounded by the Missouri River on the north; the Kansas-Missouri state line on the west; 31<sup>st</sup> street on the south; and the Paseo on east.

**88-130-04 ALLOWED USES****88-130-04-A. USE TABLE**

Uses are allowed in the D zoning districts in accordance with *Table 130-1*, below.

**88-130-04-B. USE CLASSIFICATION SYSTEM**

For the purpose of this zoning and development code, uses are classified into “use groups,” “use categories,” and “specific use types.” These are described and defined in 88-805. The first column of Table 130-1 lists the groups, categories and types allowed in one or more D districts.

**88-130-04-C. PERMITTED USES**

Uses identified with a “P” in Table 130-1 are permitted as-of-right in the subject zoning district, subject to compliance with any use standards identified in the final column of the table and all other applicable standards of this zoning and development code.

**88-130-04-D. SPECIAL USES**

Uses identified with an “S” in Table 130-1 may be allowed if reviewed and approved in accordance with the special use permit procedures of Section 88-525. Special uses are subject to compliance with any use standards identified in the final column of the table and all other applicable standards of this zoning and development code.

**88-130-04-E. PROHIBITED USES**

Uses not listed in the use table and those identified with a “–” are expressly prohibited.

**88-130-04-F. USE STANDARDS**

The “use standards” column of Table 130-1 identifies use-specific standards that apply to some uses. Compliance with such standards is required regardless of whether the use is permitted as-of-right or requires special use approval.

**88-130-04-G. SPECIAL STANDARDS ADJACENT TO PARKS, BOULEVARDS AND PARKWAYS**

(RESERVED)

**Table 130-1**  
**Downtown Districts Use Table**

USE GROUP	Zoning District			Use Standard
	DC	DX	DR	
Use Category └ specific use type				
<b>R E S I D E N T I A L</b>				
<b>Household Living</b>				
└ In single-purpose residential building	P	P	P	
└ above ground floor (in mixed-use building)	P	P	P	
<b>Group Living</b>	S	S	S	

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<b>USE GROUP</b>	<b>Zoning District</b>			<b>Use Standard</b>
<b>Use Category</b>	<b>DC</b>	<b>DX</b>	<b>DR</b>	
↳ specific use type				
<b>P U B L I C / C I V I C</b>				
<b>College/University</b>	P	P	P	
<b>Day Care</b>				
↳ Home-based (1-4)	P	P	P	
↳ Family (5-10)	P	P	P	
↳ Group(11-20)	P	P	S	
↳ Center (21+)	P	P	S	
<b>Hospital</b>	S	S	S	
<b>Library/Museum/Cultural Exhibit</b>	P	P	P	
<b>Park/Recreation</b> (except as noted below)	P	P	P	
↳ Community center	P	P	P/S	88-365
<b>Religious Assembly</b>	P	P	P	
<b>Safety Service</b>	P	P	P/S	88-365
<b>School</b>	P	P	P/S	88-365
<b>Utilities and Services</b> (except as noted below)	S	S	S	
↳ Basic, minor	P	P	P	
<b>C O M M E R C I A L</b>				
<b>Adult Business</b>				
↳ Adult media store	P	P	-	88-310-03
↳ Adult motion picture theater	P	P	-	88-310-02
↳ Sex shop	P	P	-	88-310-02
<b>Animal Service</b>				
↳ Sales and grooming	P	P	-	88-315
↳ Shelter or boarding	P	P	-	88-315
↳ Veterinary	P	P	-	88-315
↳ Stable	-	S	-	88-315
<b>Artist Work or Sales Space</b>	P	P	P	
<b>Building Maintenance Service</b>	P	P	-	
<b>Business Equipment Sales and Service</b>	P	P	-	
<b>Business Support Service</b> (except as noted below)	P	P	-	
↳ Day labor employment agency	-	S	-	
<b>Communications Service Establishments</b>	P	P	-	
<b>Drive-Through Facility</b>	S	S	-	88-340
<b>Eating and Drinking Establishments</b> (except as noted below)	P	P	P	
↳ Tavern or nightclub	P	P	S	
<b>Entertainment and Spectator Sports</b>				
↳ Indoor small venue (1-149 capacity)	P	P	P	
↳ Indoor medium venue (150-499 capacity)	P	P	S	
↳ Indoor large venue (500+ capacity)	S	S	S	
↳ Outdoor (all sizes)	S	S	S	
<b>Financial Services</b> (except as noted below)	P	P	P	
↳ Check-cashing, short-term loan/title loan establishment	-	S	-	88-325
↳ Pawn shop	-	S	-	
<b>Food and Beverage Retail Sales</b>	P	P	P	

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<b>USE GROUP</b>	<b>Zoning District</b>			<b>Use Standard</b>
	<b>DC</b>	<b>DX</b>	<b>DR</b>	
<b>Use Category</b>				
└ specific use type				
<b>Funeral and Interment Service</b>				
└ Cemetery/columbarium/mausoleum	—	—	—	88-345
└ Cremating	—	—	—	88-345-02
└ Undertaking	P	P	—	88-345
<b>Gasoline and Fuel Sales</b>	S	S	—	
<b>Lodging</b>				
└ Bed and Breakfast	P	P	P	
└ Hotel/motel	P	P	S	
<b>Office, Administrative, Professional or General</b>	P	P	P	
<b>Office, Medical</b>	P	P	—	
└ Blood/plasma center	S	S	—	
<b>Parking, Non-accessory</b>	S	S	S	
<b>Personal Improvement Service</b>	P	P	P	
<b>Repair or Laundry Service, Consumer</b>	P	P	S	
<b>Research Service</b>	P	P	—	
<b>Retail Sales</b>	P	P	P	
<b>Sports and Recreation, Participant</b>				
└ Indoor	P	P	S	
└ Outdoor	S	S	S	
<b>Vehicle Sales and Service (except as noted below)</b>	S	S	—	
└ Car wash/cleaning service	S	S	—	
└ Heavy equipment sales/rental	—	S	—	
└ Light equipment sales/rental (indoor)	S	S	—	
└ Light equipment sales/rental (outdoor)	S	S	—	
└ Motor vehicle repair, limited	S	S	—	
└ Motor vehicle repair, general	—	S	—	
└ Vehicle storage/towing	—	S	—	
<b>INDUSTRIAL</b>				
<b>Manufacturing, Production and Industrial Service</b>				
└ Artisan	P	P	—	
└ Limited	S	S	—	
└ General	—	S	—	
<b>Recycling Service</b>				
└ Limited	—	S	—	
<b>Residential Storage Warehouse</b>	—	S	—	
<b>Warehousing, Wholesaling, Freight Movement</b>				
└ Indoor	S	S	—	
└ Outdoor	—	S	—	
<b>OTHER</b>				
<b>Agriculture, Crop</b>	—	—	—	
<b>Wireless Communication Facility</b>				
└ Freestanding	—	—	—	88-385
└ Co-located antenna	P	P	P	88-385

**88-130-05 LOT AND BUILDING STANDARDS****88-130-05-A.GENERAL**

This section establishes basic lot and building standards for all development in D districts. The standards that apply vary according to the intensity designator that is attached to the zoning district symbol. These intensity designators are identified by the numeral following the dash (-) in the district name, as in "DX-5" (DX dash 5).

**88-130-05-B.BASIC STANDARDS**

All residential and nonresidential development in D districts must comply with the lot and building standards of Table 130-2, except as otherwise expressly provided. General exceptions to lot and building standards and rules for measuring compliance can be found in 88-820.

<b>Table 130-2 Lot and Building Standards (D Districts)</b>	<b>-1</b>	<b>-2</b>	<b>-3</b>	<b>-5</b>	<b>-7</b>	<b>-10</b>	<b>-15</b>
<b>Lot Size</b>	None	None	None	None	None	None	None
└ Min. lot area (sq. ft.)	1,250	750	400	200	150	125	100
└ Min. lot area per unit (sq. ft.)	None	None	None	None	None	None	None
└ in single purpose residential building	None	None	None	None	None	None	None
└ above ground floor in mixed-use building	None	None	None	None	None	None	None
└ Min. lot width (feet)	1.4	2.2	3.0	5.0	7.0	10.0	15.0
<b>Floor Area Ratio</b>	[1]	[1]	[1]	[1]	[1]	[1]	[1]
└ Maximum	None	None	None	None	None	None	None
<b>Min. Front Setback [1]</b>							
└ Abutting residential district	25	25	25	25	25	25	25
└ Not abutting R district	30	30	30	30	30	30	30
<b>Min. Rear Setback</b>	None	None	None	None	None	None	None
└ Abutting residential district							
└ % of lot depth	25	25	25	25	25	25	25
└ Maximum required (feet)	30	30	30	30	30	30	30
└ Not abutting R district	None	None	None	None	None	None	None
<b>Side Setback</b>	[2]	[2]	[2]	[2]	[2]	[2]	[2]
└ Abutting residential district	None	None	None	None	None	None	None
└ Not abutting R district	None	None	None	None	None	None	None
<b>Maximum Height</b>							
└ Building with ground floor commercial space [3]	40	50	60	None	None	None	None
└ Building without ground floor commercial space	35	45	55	None	None	None	None

## Notes to Table 130-2

[1] Front setback required only when D-zoned lot abuts R-zoned lot with frontage on the same street. In such cases, the D-zoned lot must match the actual front setback of the building that exists on the abutting R-zoned lot, or if no building exists on the abutting R-zoned lot, the D-zoned lot must provide at least 50% of the front setback that applies to the abutting R-zoned lot.

- [2] Side setback required only when D-zoned lot abuts R-zoned lots. In such cases, the D-zoned lot must provide the same side setback as required for the abutting R-zoned lot.
- [3] Ground-floor commercial space must comply with 88-130-06.

### **88-130-06 GROUND-FLOOR COMMERCIAL FLOOR SPACE**

In all D districts, the minimum floor-to-ceiling height of all ground floor space, other than allowed residential floor space or parking areas, must be at least 13 feet and contain the following minimum floor area:

**88-130-06-A.**at least 800 square feet or 25% of the lot area (whichever is greater) on lots with lot frontage of less than 50 feet (as measured along the shorter lot frontage on lots containing multiple frontages); or

**88-130-06-B.**at least 20% of the lot area on lots with 50 feet of lot frontage or more (as measured along the shorter lot frontage on lots containing multiple frontages).

### **88-130-07 FLOOR AREA AND BUILDING HEIGHT BONUSES FOR PUBLIC BENEFITS**

(RESERVED) (e.g., workforce housing or LEED-certified buildings)

## **88-140 MANUFACTURING DISTRICTS**

### **88-140-01 PURPOSE**

Kansas City's manufacturing (M) zoning districts are primarily intended to accommodate manufacturing, warehousing, wholesale and industrial uses. The regulations are intended to promote the economic viability of manufacturing and industrial uses; encourage employment growth; and limit the encroachment of unplanned residential and other non-industrial development into industrial areas.

### **88-140-02 DISTRICTS**

#### **88-140-02-A. LIST**

The city's manufacturing zoning districts are listed below. When this zoning and development code refers to "manufacturing" zoning districts or "M" districts, it is referring to these districts.

<b>Map Symbol</b>	<b>District Name</b>
M1	Manufacturing 1
M2	Manufacturing 2
M3	Manufacturing 3
M4	Manufacturing 4

#### **88-140-02-B. DECIPHERING THE NAMES AND MAP SYMBOLS**

The map symbols and district names shown above provide only a general, relative indication of the types and scale of uses allowed within respective districts. When these districts are identified on the zoning map they will include at least one other essential information component: an intensity designator, which will be identified by a dash and a

numeral following the initial letter-number combination, as in M1-5 (M1 dash 5). The intensity designator establishes the allowable intensity of development and applicable lot and building standards.

### **88-140-03 ALLOWED USES**

#### **88-140-03-A. USE TABLE**

Uses are allowed in M zoning districts in accordance with Table 140-1, below.

#### **88-140-03-B. USE CLASSIFICATION SYSTEM**

For the purpose of this zoning and development code, uses are classified into “use groups,” “use categories,” and “specific use types.” These are described and defined in 88-805. The first column of Table 140-1 lists the groups, categories and types allowed in M districts.

#### **88-140-03-C. PERMITTED USES**

Uses identified with a “P” in Table 140-1 are permitted as-of-right in the subject zoning district, subject to compliance with any use standards identified in the final column of the table and all other applicable standards of this zoning and development code.

#### **88-140-03-D. SPECIAL USES**

Uses identified with an “S” in Table 140-1 may be allowed if reviewed and approved in accordance with the special use permit procedures of Section 88-525. Special uses are subject to compliance with the use standards identified in the final column of the table and all other applicable standards of this zoning and development code.

#### **88-140-03-E. PROHIBITED USES**

Uses not listed and those identified with a “–” are expressly prohibited.

#### **88-140-03-F. USE STANDARDS**

The “use standards” column of Table 140-1 identifies use-specific standards that apply to some uses. Compliance with such standards is required regardless of whether the use is permitted as-of-right or requires special use approval.

#### **88-140-03-G. SPECIAL STANDARDS ADJACENT TO PARKS, BOULEVARDS AND PARKWAYS**

(RESERVED)

**Table 140-1**

**Manufacturing Districts Use Table**

<b>USE GROUP</b>	<b>Zoning District</b>				<b>Use Standards</b>
<b>Use Category</b>	<b>M1</b>	<b>M2</b>	<b>M3</b>	<b>M4</b>	
<b>R E S I D E N T I A L</b>					
Household Living	S	–	–	–	
Group living	S	–	–	–	
<b>P U B L I C / C I V I C</b>					
College/University	P	P	–	–	
Day Care	P	P	S	S	

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<b>U S E   G R O U P</b>		<b>Zoning District</b>				<b>Use Standards</b>
<b>Use Category</b>	<b>L</b> specific use type	<b>M1</b>	<b>M2</b>	<b>M3</b>	<b>M4</b>	
<b>Detention and Correctional Facilities</b>		S	S	S	S	88-335
<b>Safety Service</b>		P	P	P	P	
<b>Utilities and Services</b> (except as noted below)		S	S	S	S	
<b>L</b> Basic, minor		P	P	P	P	
<b>C O M M E R C I A L</b>						
<b>Adult Business</b>						
<b>L</b> Adult media store		P	P	P	P	88-310
<b>L</b> Adult motion picture theater		P	P	P	P	88-310
<b>L</b> Sex shop		P	P	P	P	88-310
<b>Animal Service</b>		P	P	P	P	88-315
<b>Artist Work or Sales Space</b>		P	P	P	P	
<b>Building Maintenance Service</b>		P	P	P	P	
<b>Business Equipment Sales and Service</b>		P	P	P	P	
<b>Business Support Service</b> (except as noted below)		P	P	P	P	
<b>L</b> Day labor employment agency		S	S	P	P	
<b>Communications Service Establishments</b>		P	P	P	P	
<b>Drive-through Facility</b>		P	—	—	—	
<b>Eating and Drinking Establishments</b>		P	P	P	P	
<b>Entertainment and Spectator Sports</b>		P	S	S	—	
<b>Financial Services</b>		P	S	S	S	
<b>Food and Beverage Retail Sales</b>		P	P	P	P	Max 5K sq. ft.
<b>Funeral and Interment Service</b>						
<b>L</b> Cemetery/columbarium/mausoleum		—	—	—	—	
<b>L</b> Cremating		P	P	P	P	
<b>L</b> Undertaking		P	P	P	P	
<b>Gasoline and Fuel Sales</b>		P	P	P	P	
<b>Office, Administrative, Professional or General</b>		P	P	P	P	
<b>Office, Medical</b>		P	P	—	—	
<b>Parking, Non-accessory</b>		P	P	P	P	
<b>Personal Improvement Service</b>		P	P	P	P	
<b>Repair or Laundry Service, Consumer</b>		P	P	P	—	
<b>Research Service</b>		P	P	P	P	
<b>Retail Sales</b>		P	P	P	P	Max 5K sq. ft.
<b>Sports and Recreation, Participant</b>		P	S	S	—	
<b>Vehicle Sales and Service</b> (except as noted below)		P	P	P	P	
<b>L</b> Light equipment sales/rental (indoor)		P	P	—	—	
<b>L</b> Light equipment sales/rental (outdoor)		P	P	—	—	
<b>I N D U S T R I A L</b>						
<b>Junk/Salvage Yard</b>		—	—	S	P	

<b>U S E   G R O U P</b>	<b>Zoning District</b>				<b>Use Standards</b>
	<b>M1</b>	<b>M2</b>	<b>M3</b>	<b>M4</b>	
<b>Use Category</b>					
└ specific use type					
<b>Manufacturing, Production and Industrial Service</b>					
└ Artisan	P	P	P	P	
└ Limited	P	P	P	P	
└ General	S	P	P	P	
└ Intensive	—	—	—	P	
<b>Mining/Quarrying</b>	S	S	S	S	88-355
<b>Recycling Service</b>					
└ Limited	P	P	P	P	
└ General	S	S	S	P	
<b>Residential Storage Warehouse</b>	P	P	P	—	
<b>Warehousing, Wholesaling, Freight Movement</b>					
└ Indoor	P	P	P	P	
└ Outdoor	—	—	S	P	
<b>Waste-related Use</b>	—	—	—	S	
└ Demolition debris landfill	S	S	S	S	88-380
└ Solid waste separation facility	—	—	S	S	88-380
└ Transfer station	—	—	S	S	88-380
<b>O T H E R</b>					
<b>Agriculture, Crop</b>	P	P	P	P	
<b>Wireless Communication Facility</b>					
└ Freestanding	P	P	P	P	88-385
└ Co-located antenna	P	P	P	P	88-385

## 88-140-04 LOT AND BUILDING STANDARDS

### 88-140-04-A. GENERAL

This section establishes basic lot and building standards for all development in M districts. The standards that apply vary according to the intensity designator that is attached to the zoning district symbol. These intensity designators are identified by the numeral following the dash (-) in the district name, as in "M1-2" (M1 dash 2).

### 88-140-04-B. BASIC STANDARDS

All development in M districts must comply with the lot and building standards of Table 140-2, except as otherwise expressly provided. General exceptions to lot and building standards and rules for measuring compliance can be found in 88-820.

<b>Table 140-2</b> <b>Lot and Building Standards (M Districts)</b>	<b>-1</b>	<b>-2</b>	<b>-3</b>	<b>-4</b>	<b>-5</b>
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<b>Lot Size</b>					
└ Min. lot area (square feet)	None	None	None	None	None
└ Min. lot width (feet)	None	None	None	None	None

<b>Table 140-2 Lot and Building Standards (M Districts)</b>	<b>-1</b>	<b>-2</b>	<b>-3</b>	<b>-4</b>	<b>-5</b>
<b>Floor Area Ratio</b>					
└ Maximum	1.4	2.2	3.0	4.0	5.0
<b>Min. Front Setback [1]</b>	[1]	[1]	[1]	[1]	[1]
└ Abutting residential district	None	None	None	None	None
└ Not abutting R district					
<b>Min. Rear Setback</b>					
└ Abutting residential district	25	25	25	25	25
└ % of lot depth	30	30	30	30	30
└ Maximum required (feet)	None	None	None	None	None
└ Not abutting R district					
<b>Side Setback</b>	[2]	[2]	[2]	[2]	[2]
└ Abutting residential district	None	None	None	None	None
└ Not abutting R district					
<b>Height</b>					
└ Maximum	40	50	60	70	None

#### Notes to Table 140-2

[1] Front setback required only when M-zoned lot abuts R-zoned lot with frontage on the same street. In such cases, the M -zoned lot must match the actual front setback of the building that exists on the abutting R-zoned lot, or if no building exists on the abutting R-zoned lot, the M-zoned lot must provide at least 50% of the front setback that applies to the abutting R-zoned lot.

[2] Side setback required only when M-zoned lot abuts R-zoned lots. In such cases, the M-zoned lot must provide the same side setback as required for the abutting R-zoned lot.

### 88-140-05 OUTDOOR STORAGE AND WORK ACTIVITIES

#### 88-140-05-A. OUTDOOR STORAGE AND DISPLAY AREAS

1. Outdoor storage and display is allowed as an accessory use in all M districts if such storage is a customary accessory use to the principal use on a site.
2. Outdoor storage and display is allowed as a principal use in the M2 and M3 districts but not in the M1 district.
3. Outdoor storage or outdoor product display areas must be screened in accordance with the standards of 88-140-06.

#### 88-140-05-B. OUTDOOR WORK AREAS

Outdoor work areas are allowed in M2 and M3 districts but not in the M1 district. Outdoor work areas must be buffered and screened in accordance with the standards of 88-140-06.

## **88-140-06 SCREENING AND BUFFERING**

### **88-140-06-A. OUTDOOR STORAGE AND DISPLAY AREAS**

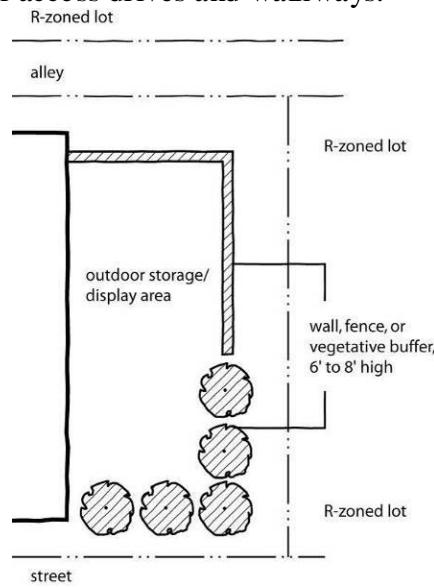
#### **1. SCREENING FROM R DISTRICTS**

Outdoor storage or display areas that abut R districts along a side property line or rear property line or are separated from an R district by only an alley along a side property line or rear property line must be effectively screened from view of the R district by a solid wall, solid fence, or dense vegetative screen. Required screening must be at least 6 feet in height. Walls and fences may not exceed 8 feet in height. Fences and walls must be masonry or wood, sight-obscuring and planted with vines or tall-growing shrubs (to help screen the fence/wall). Chain-link fencing is expressly prohibited.

#### **2. SCREENING FROM PUBLIC STREETS**

All outdoor storage areas in M districts must be screened from view of public streets, as follows:

- (a) The view of outdoor storage areas must be visually screened from view of all contiguous streets other than alleys by permitted structures or by a vegetative buffer that is at least 6 feet in height or by a combination of such features.
- (b) Required screening must be located between the perimeter of the outdoor storage area and any property line abutting the public street.
- (c) This screening requirement is not intended to prohibit openings reasonably necessary for access drives and walkways.



## **88-140-07 OUTDOOR WORK AREAS**

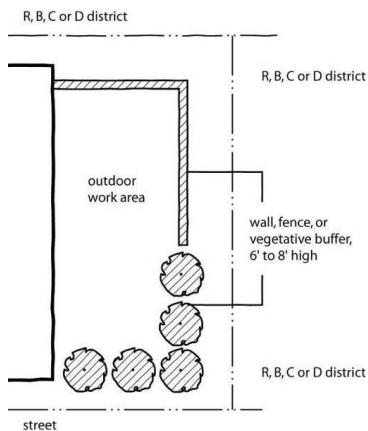
### **88-140-07-A. SCREENING FROM PUBLIC STREETS**

All outdoor work areas must be screened from view of public streets, as follows:

1. The view of such outdoor work areas from public streets (other than alleys) must be visually screened either by permitted structures or by a vegetative buffer that is at least 6 feet in height or by a combination of such features.
2. Such screening must be located between the perimeter of the outdoor work area and any property line abutting a public street.
3. This screening requirement is not intended to prohibit openings reasonably necessary for access drives and walkways.

**88-140-07-B. SCREENING FROM OTHER ZONING DISTRICTS**

All outdoor work areas situated on a lot with side property lines or rear property lines contiguous with property in any R, O, B, or D district must be effectively screened along such side property lines or rear property lines by a solid wall, solid fence, or dense vegetative screen. Required screening must be at least 6 feet in height. Walls and fences may not exceed 8 feet in height. Fences and walls must be masonry or wood, sight-obscuring and planted with vines or tall-growing shrubs (to help screen the fence/wall). Chain-link fencing is expressly prohibited.



**200 SERIES • • OVERLAY AND SPECIAL PURPOSE DISTRICTS**

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- 88-210-03 Location and Site Requirements
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**88-205 OVERLAY DISTRICTS GENERALLY**

**88-205-01 GENERAL**

Overlay districts are for areas of the city that have unique qualities requiring special treatment or locations where special approaches to development may be warranted. They are established as a means of addressing specific aspects of land use control or development design that transcend base zoning district provisions. Overlay districts permit greater design flexibility than otherwise permitted by the conventional standards of this zoning and development code. As the name implies, overlay districts “over-lay” applicable base district classification to alter some or all of the zoning regulations that apply to particular sites. Overlay districts may be appropriate in areas where there are natural resource considerations, where historic preservation is needed, where there is the need to balance institutional development with the need to preserve surrounding neighborhoods, to maintain community character, for infrastructure protection or to accomplish city policy objectives for specific areas.

**88-205-02 PURPOSE**

The purpose of overlay districts is to allow the city to establish special land use regulations, standards, or procedures in areas with unique land use, site planning, building design or environmental resource issues. An overlay may protect and preserve established character of existing areas of historical note or architectural merit by limiting the flexibility of underlying base districts in order to more effectively match the density and intensity or established character of the area. The overlay may control demolitions and regulate the preservation, restoration and rehabilitation of existing structures as well as the design of new infill construction. The overlay may also be used to establish allowable land uses that are more prohibitive than the underlying district and to establish specific design guidelines that are more detailed than the standards of this zoning and development code. Overlay zoning districts are intended to:

**88-205-02-A.** Protect an area's rare, unique or distinctive character through the use of development/design standards and guidelines to:

1. encourage development that conforms to the size, orientation and setting of existing buildings; and

2. regulate building setbacks and orientation, lot dimension, site/building design and related physical characteristics that exemplify the positive characteristics of an area;

**88-205-02-B.** Reduce the need for zoning variances for development that conforms to the site, orientation and setting of existing buildings in an area;

**88-205-02-C.** Conserve cultural resources, preserve historic resources and stabilize property values and reduce investment risks within an identified area;

**88-205-02-D.** Maintain and promote the economic vitality of an area; and

**88-205-02-E.** Establish development/design standards to implement an adopted neighborhood or area plan.

### **88-205-03 TYPES OF OVERLAY DISTRICTS**

There are four basic types of overlays: historic overlay, neighborhood conservation overlay, design review overlay and special character overlay.

**88-205-03-A.** Historic Overlay districts are used to identify sites and areas within the city with structures and groupings of structures that are of historic, stylistic or thematic significance, as identified by historic resources surveys. This is the strictest of the four types of overlays.

**88-205-03-B.** Neighborhood Overlay districts are used to identify sites and areas within the city that represent clearly defined neighborhoods or commercial areas with predominantly consistent historic or architectural character. Although neighborhood overlay districts typically protects groups of buildings that have some historical significance, historic preservation is not the only goal. Neighborhood overlay districts seek to preserve an area's cultural, architectural and aesthetic ambience.

**88-205-03-C.** Special Review Overlay districts provide for the creation of a design review committee with responsibilities set forth in the overlay ordinance and are limited to the review of exterior changes, visible from the public right-of-way, to a building, structure or element.

**88-205-03-D.** Special Character Overlay districts include adult entertainment and pedestrian-oriented overlay districts and may include transit oriented development overlay districts, airport overlay districts, and others.

### **88-205-04 ESTABLISHMENT**

**88-205-04-A.** Overlay districts must be established in accordance with the zoning and development code text amendment procedures of 88-510 (to establish the applicable regulations) and the zoning map amendment procedures 88-515 (to establish the district on the zoning map).

**88-205-04-B.** Components that may be included in an overlay district ordinance are:

1. purpose statement, tying the overlay to the goals and objectives of the comprehensive plan, citing the public necessity behind the intent and making a direct connection to protecting the public health, safety, morals, general welfare and aesthetics;

2. location and area of applicability;
3. spatial definitions, with rules for spatial definition as simple and understandable as possible (Provide the information in a way the public can understand. Use graphics as much as possible);
4. procedures for applications, specifying any additional information needed to demonstrate compliance with the overlay district regulations;
5. special definitions, as needed;
6. standards for review and approval to be used by review and decision-making bodies;
7. permitted, prohibited and special uses;
8. review and decision-making bodies charged with reviewing development applications and determining compliance with overlay district regulations;
9. appeals process; and
10. variance and administrative adjustment rules, if different for the overlay district.

**88-205-04-C.** Multiple historic, neighborhood and/or special review overlays may not be designated over any individual property.

**88-205-04-D.** Historic, neighborhood and design review overlays and any associated standards or guidelines must reflect the prevalent intensity and consistent building design in the neighborhood, to ensure that new development reflects the identifiable physical character of the area.

**88-205-04-E.** Applications for establishment of a neighborhood conservation overlay must be accompanied by the fee amount that has been established by the city council. Fees are not required with applications initiated by the city council, city plan commission or city planning and development director. Application fees are nonrefundable 5 working days after application filing, provided that the city planning and development director may grant a partial refund for good cause shown by the applicant.

## **88-205-05 DESIGN GUIDELINES AND STANDARDS**

**88-205-05-A.** Overlay regulations may be used to replace all zoning or some of the base zoning restrictions. It may also be used to enact new regulations for an area.

**88-205-05-B.** An overlay may encompass one or more base zoning districts.

**88-205-05-C.** When overlay district standards conflict with applicable base district standards or other regulations of this zoning and development code, the regulations of the overlay district always govern.

**88-205-05-D.** When no special overlay district standards are specified, the base district standards and all other applicable regulations of this zoning and development code will govern.

**88-205-05-E.** When development/design guidelines have been approved, each building permit application for new construction or exterior alteration within the designed overlay district must comply with those standards.

**88-205-05-F.** Overlay district regulations may allow for the modification of any of the following standards within the zoning and development code:

1. land uses (principal or accessory). Standards may impose stricter limitations governing uses than allowed by the underlying zoning but may not permit uses not allowed by the underlying zoning);
2. lot and building standards (e.g., density, lot area, setbacks, height);
3. site design standards including building coverage; required open space; location of driveways, parking pads, and garages;
4. landscaping and buffering standards, layout of public way, vehicular and pedestrian circulation patterns;
5. sign standards;
6. lighting standards; or
7. other zoning-related standards necessary to address unique zoning, platting or development features.

**88-205-05-G.** An overlay district may allow for restrictions on building design or placement details, including scale, mass, materials, and architectural style.

**88-205-05-H.** Where appropriate, an overlay may require the application of specific design guidelines in the review of development.

1. Such guidelines must be established as part of the overlay district at the time of adoption. The review process must be included in the design guidelines.
2. Guidelines for new infill construction within an overlay district may be different than those for existing buildings.

#### **88-205-06 AMENDMENT OR REMOVAL OF AN OVERLAY**

An overlay district may be amended or removed only in accordance with the zoning map amendment procedures of 88-515.

#### **88-205-07 VARIANCES AND ADMINISTRATIVE ADJUSTMENTS**

Within any established overlay district, applicants may seek authorized zoning variances pursuant to 88-565 except as modified by the provisions of this section but may not seek administrative adjustments pursuant to procedures 88-570 unless specifically permitted by the enabling overlay district ordinance.

#### **88-205-08 DOCUMENTATION OF OVERLAYS**

**88-205-08-A.** Once an overlay district is approved by the city council, the city planning and development department must amend the official zoning maps to identify the overlay district boundaries and designation, together with the underlying zoning designation.

**88-205-08-B.** The city planning and development department must maintain a list of established overlay districts by type.

##### **88-205-08-C.**

Zoning Symbol	Map	District Name
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CX/O	Adult Entertainment Overlay
SR/O	Special Review Overlay
NC/O	Neighborhood Character Overlay
P/O	Pedestrian-Oriented Overlay
H/O	Historic Overlay

## **88-210 CX/O, ADULT ENTERTAINMENT OVERLAY DISTRICT**

### **88-210-01 PURPOSE**

The purpose of the CX/O, adult entertainment overlay district is to identify and prescribe specific requirements and conditions for the location of certain defined adult entertainment activities. The district is designed as an overlay district in certain zoning districts based on the regional character of the activities. Adult entertainment uses do not occur on a frequent basis and require separate and specifically designed regulations for their development. Such adult entertainment uses are recognized as having serious objectionable operational characteristics, particularly if several of such uses are concentrated, thereby having a deleterious effect upon adjacent areas. The location of such uses has an additional deleterious effect upon adjacent areas and could contribute to the blighting and downgrading of the surrounding neighborhood. The special regulation of adult entertainment uses is necessary to ensure that the adverse effect of such uses will not contribute to the blighting or downgrading of surrounding neighborhoods, whether residential or nonresidential, by location or concentration, and to ensure the stability of such neighborhoods.

### **88-210-02 ESTABLISHMENT OF CX/O OVERLAY DISTRICT**

**88-210-02-A.** The CX/O overlay district may be established only in accordance with the zoning map amendment procedure of Article 88-515, provided that the city plan commission must recommend and the city council must find that:

1. the proposed CX/O district meets all requirements of this zoning and development code without exception; and
2. the proposed use to be constructed or operated will neither negatively impact nor materially injure property within 1,000 feet of the proposed CX/O district boundaries.

**88-210-02-B.** No CX/O district may be established without the submission and approval of a site plan. Failure to comply with the site plan approved and established as part of the CX/O district is an express violation of this zoning and development code, enforceable under Article 88-615.

**88-210-02-C.** The CX/O overlay district may be established only in combination with B4, DC, M1, M2 and M3 districts.

**88-210-02-D.** A CX/O district may be established only if the boundaries of the district are at least 1,000 feet from any church or place of worship, day care facility, public park, educational institution, library, museum, cultural exhibit, community center, R district, AG-R district, children's amusement park or residential building.

**88-210-03 LOCATION AND SITE REQUIREMENTS**

Any adult cabaret, bathhouse, massage shop or modeling studio must meet the following location and site requirements:

**88-210-03-A.** Not more than 2 adult businesses may be located within 1,500 feet of each other (regardless of whether such uses are located in different zoning districts) as measured in a straight line from the lot line of the affected properties; provided, however, that the site plan that is approved with the establishment of a CX/O district may provide for multiple adult businesses within the same facility.

**88-210-03-B.** All access must be provided from a major thoroughfare.

**88-210-03-C.** The property on which such use is located must have a minimum of 50 feet of street frontage.

**88-210-03-D.** The property on which the use is located must be screened by a solid masonry wall at least 6 feet in height along the side and rear property lines, provided that the parking lot may be screened by decorative fencing such as wrought iron or brick and need not be screened by a solid masonry wall.

**88-210-03-E.** The facility in which the use is located and the parking for such facility must have a front setback of at least 20 feet, a minimum side setback of 10 feet, and a minimum rear setback of 10 feet provided that where the use is proposed in an existing building, the setback requirements need not be met.

**88-210-03-F.** Off-street parking and landscaping requirements must be met, except that the city council may approve a site plan that does not comply with the off-street parking requirements when they determine that parking provided is consistent with sound planning principles in consideration of anticipated use, transit accessibility and off-site parking availability. The parking provided on the site plan must remain available and will constitute a violation if not provided.

**88-210-03-G.** If the parking and maneuvering space of any parking lot exceeds 7,500 square feet, at least 5% of the lot area must be maintained as landscaped area; provided that a credit toward the overall required landscaped area may be provided if the landscaping provides for trees either at least 15 feet in height or at least three inches in diameter for each 2,000 square feet of required landscaped parking area. Additionally, 15% of the entire lot area, including parking area, must be maintained as an open landscaped area with a 20-foot landscape buffer along all street frontage. Provided that the council may approve development plan where an appropriate alternative is proposed for an existing building and parking lot such as decorative wrought iron or brick fencing.

**88-210-03-H.** The facility in which the use is located must be designed so that all openings, entries and windows prevent view into such facilities from any sidewalk, walkway, street or other public area, provided that the site plan may provide for openings into such facility where needed for security reasons if no merchandise or pictures can be viewed from the openings.

**88-210-03-I.** The facility in which such use is located is limited to one wall-mounted sign no greater than one square foot of sign area per linear foot of wall length, not to exceed a total of 50 square feet, provided that the city council may approve the location of up to 3 signs that collectively may not exceed a total of 50 square feet in area. Signs may not flash, blink or move by mechanical means and may not extend above the roofline of the building.

Further, no merchandise or pictures of products or entertainment on the premises may be displayed in window areas or any area where such merchandise or pictures can be viewed from the sidewalk in front of the building. Flashing lights or lights that give the impression of motion or movement are not permitted.

#### **88-210-04 SITE PLAN**

The site plan accompanying the application for approval of a CX/O district must include the following information:

- 88-210-04-A.** The site plan must be drawn at a scale of one inch equals 100 feet or larger.
- 88-210-04-B.** The site plan must delineate the property lines of the proposed project.
- 88-210-04-C.** The site plan must delineate existing rights-of-way and easements.
- 88-210-04-D.** The site plan must delineate the general location and width of all proposed streets and public rights-of-way, such as alleys, pedestrian ways and easements.
- 88-210-04-E.** The site plan must delineate all fences, walls and screening provided.
- 88-210-04-F.** The site plan must delineate the proposed building layout and front, side and rear building setbacks.
- 88-210-04-G.** The site plan must characterize the proposed use of the building and description of the proposed use by type, character and intensity.
- 88-210-04-H.** The site plan must delineate the location and number of parking spaces, and the number of proposed parking and loading spaces.
- 88-210-04-I.** The site plan must delineate all points of access and egress.
- 88-210-04-J.** The site plan must present, in tabular form, the proposed intensity of the use, providing the number of seats, employees or other applicable unit of measure.
- 88-210-04-K.** The site plan must delineate the gross floor area of the building or structure.
- 88-210-04-L.** The site plan must detail the proposed stages of construction for all land in development and improvements with the proposed district.
- 88-210-04-M.** The site plan must describe the landscaping to be provided.
- 88-210-04-N.** The site plan must delineate the proposed exterior lighting.
- 88-210-04-O.** The site plan must delineate the proposed architectural details of the facility.
- 88-210-04-P.** The site plan must indicate all signage to be provided.
- 88-210-04-Q.** The site plan must set forth any other information necessary for determination of compliance with this zoning and development code and the suitability of the proposed use for the site.

#### **88-210-05 LOCATION OF USES OUTSIDE CX/O DISTRICT**

No adult cabaret, bathhouse, massage shop or modeling studio is permitted except within a CX/O district. Motion picture arcade booths and motion picture arcade booth establishments are expressly prohibited in the CX/O district and in all other zoning districts, regardless of whether such uses are determined to be principal or accessory uses.

## **88-220 SR/O, SPECIAL REVIEW OVERLAY DISTRICT**

### **88-220-01 PURPOSE**

The SR/O, Special Review overlay district is intended to:

**88-220-01-A.** stabilize property values and reduce investment risks;

**88-220-01-B.** maintain and promote the economic vitality of an area;

**88-220-01-C.** encourage preservation of an area's rare, unique or distinctive character; and

**88-220-01-D.** otherwise promote the health, safety, morals and general welfare of the city.

### **88-220-02 ESTABLISHMENT OF DESIGN REVIEW COMMITTEE**

**88-220-02-A.** Every ordinance establishing a SR/O district must provide for the creation of a design review committee of no fewer than 5 members.

**88-220-02-B.** The number of members on the committee and the specific scope of responsibility for the committee must be set forth in the ordinance creating the SR/O districts.

**88-220-02-C.** Members of the design review committee must be appointed by the mayor for a term of 4 years.

**88-220-02-D.** All voting members of the design review committee must be property owners or lessees, or the property owners' or lessees' employees, except as provided in this section.

**88-220-02-E.** The majority of the design review committee must be owners of property within the SR/O districts, or the employees of such property owners.

**88-220-02-F.** If a property owner is a partnership or corporation, then any partner, member of the board of directors, officer or other entity authorized under the law is eligible for membership.

**88-220-02-G.** Nonvoting members who are representatives of the city and the community may also be appointed by the mayor.

**88-220-02-H.** At least one member of the design review committee must have a background in architecture, urban design or city planning. The mayor may appoint any such person as a voting member or nonvoting member of the committee; provided the mayor may appoint only one such person as a voting member who is not an owner, lessee or employee within the district.

### **88-220-03 DESIGN STANDARDS AND GUIDELINES**

Every SR/O district must be accompanied by design standards and/or design guidelines that apply within the district. These standards and guidelines must substantially comply with the master plan or area plan for the area in which the SR/O district is to be located.

### **88-220-04 DESIGN REVIEW**

#### **88-220-04-A. PLAN COMMISSION RULES**

The city plan commission must adopt rules and regulations governing the procedure to be followed for conducting the design review process in SR/O districts.

**88-220-04-B. APPLICABILITY**

The design review committee may review only exterior changes, visible from the public right-of-way, to a building, structure or element, including the following:

1. applications for building permits;
2. walls and fences;
3. painting or application of any treatment that changes the color of a wall or other feature of the building visible from the street right-of-way, including signs and graphics;
4. removal, replacement or addition of wall material, or work that alters the appearance of the building or exterior structure;
5. addition, removal or replacement of doors, windows, awnings or lighting fixtures; or
6. landscaping.

**88-220-04-C. REVIEW BY CITY PLAN COMMISSION**

After review by the design review committee, the city plan commission must review and take action on all of the following:

1. any application that is denied by the design review committee;
2. any application that seeks to vary or modify any standard of this zoning and development code;
3. any application that has not been acted upon by the design review committee within 30 days of receipt of a completed application; and
4. any matter upon which a property owner or lessee claims that the design review committee exceeded its authority.

**88-225 NC/O, NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT**

**88-225-01 PURPOSE**

The purpose of the NC/O, Neighborhood Conservation Overlay district, is to protect and preserve the established character of existing neighborhoods by limiting the flexibility of underlying base zoning to more effectively match the density, intensity or established character of an existing area. The NC/O district may also be used to establish specific design guidelines that are more detailed than the standards of this ordinance.

**88-225-02 APPLICATION FILING**

**88-225-02-A.** An NC/O district application may be initiated by:

1. a petition requesting NC/O district designation signed by a simple majority (50 percent + 1 property owner) of the property owners within the proposed district; or
2. the city council, the city plan commission, the overlay design review board, or the city planning and development director, acting on the city's behalf.

**88-225-02-B.** Each NC/O district must be established by a separate NC/O district ordinance.

**88-225-02-C.** The standards or guidelines proposed for the overlay must be included with the application for designation. The associated standards and guidelines:

1. Must reflect the prevalent intensity and consistent building design in the neighborhood, to ensure that new development reflects the identifiable physical character of the area.
2. May but are not required to include design features (e.g., front porches, window style, color, etc); type/style of architecture; location, size, scale, and massing relative to adjacent structures; and other features that specifically relate to the district as a whole and any and all subdistricts being established.
3. Must identify projects which may be approved by the city planning and development director as described in 88-225-06 and projects which must be reviewed by the overlay design review board.

**88-225-02-D.** The application must include or be accompanied by the following:

1. Application fee.
2. Map showing the existing zoning and uses on all of the land in the area of request, and on all of the land within 300 feet, including streets and alleys, measured from the boundary of the area of request.
3. A list of the names and addresses of all property owners and residents in the area of request.
4. A list of all neighborhood associations or other organizations representing the interests of property owners in the area of request. This list should include information as the officers' names, mailing addresses, and phone numbers.
5. A statement of justification. This statement should:
  - (a) point out the factors which render the area of request eligible for NC/O district classification; and
  - (b) explain in detail how and why such a classification would be in the best interest of the city as a whole.
6. A description of the prevalent architectural and cultural attributes of the area, supported by a map denoting examples of such attributes.
7. Any additional information that the planning and development director determines to be necessary competent and sufficient review of the application.

### **88-225-03 DETERMINATION OF ELIGIBILITY FOR NC/O DISTRICT**

**88-225-03-A.** In reviewing and making decisions on NC/O district applications, the planning and development director, overlay design review board, city plan commission and city council must consider at least the following factors:

1. conformance with adopted plans and planning policies;
2. zoning and use of nearby property;
3. physical character of the area; and

4. the extent to which designation of the NC/O district will either improve or detrimentally affect nearby properties.

**88-225-03-B.** To be eligible for NC/O district classification, an area must satisfy all of the following criteria:

1. The area must contain at least one blockface.
2. The area must be either “stable” or “stabilizing.”
3. The area must contain significant architectural, natural or cultural attributes.
4. The area must have a distinctive atmosphere or character that can be conserved by protecting or enhancing its architectural or cultural attributes.
5. The district must be a contiguous area of at least 10 acres, provided that the overlay design review board may recommend and the city council may approve an NC/O district with less than 10 acres if the city council determines that the area has an identifiable character and that an NC/O district will help stabilize the tax base, encourage investment and promote the preservation of architectural, natural and/or cultural resources.

**88-225-04 DESIGNATION OF DISTRICT AND SUBDISTRICT**

NC/O districts may be designated only in accordance with the zoning map amendment procedures of 88-515, except as modified by the provisions of this series.

**88-225-04-A.** An NC/O district may be established as one district or may be composed of various subdistricts that have certain common requirements but differ in certain elements, while remaining complementary to the district as a whole.

**88-225-04-B.** The designation of an NC/O district must include:

1. designation of a specific area by rezoning as an overlay district (in the case of subdistricts, each subdistrict must be separately described);
2. development of specific standards and guidelines related to all or any of the standards for scale and form, façade composition, site design, intensity, garages and accessory structures, etc. applicable to the district as a whole and to any subdistricts.
3. identification of uses, in the district as a whole or in any or all subdistricts, that would otherwise be allowed in the underlying base zoning district but are prohibited in the NC/O district or one or more subdistricts as consistent with the purposes of the NC/O district.

**88-225-04-C.** Applications initiated by petition for NC/O district designation must be submitted to the city planning and development director.

1. The planning and development director must review NC/O district applications for completeness and determine if additional information is needed. The city has 28 days from the date the application is submitted to determine whether it is complete. A determination of completeness, however, does not preclude the city from requesting additional information.
2. The planning and development director must determine the eligibility of an area being considered for NC/O district designation based on 88-225-03. If the

planning and development director determines that the area is not eligible for NC/O district designation, the applicant must be notified of this fact in writing through the mail to the address shown on the application. The decision of the planning and development director that an area is not eligible for NC/O district designation may be appealed to the overlay design review board.

3. An appeal under 88-225-04-C.2 may be made only by filing a written request with the planning and development director. The request must be filed within 30 days of the date of the decision of the planning and development director. In considering the appeal, the sole factor to be considered is whether the planning and development director erred in their determination of eligibility. The overlay design review board must consider the same standards that were required to be considered by the planning and development director in making their determination.
4. The overlay design review board's determination of eligibility on appeal is final. If the board determines that the area is not eligible for NC/O district designation, no further applications for NC/O district classification may be considered for the area of request for 2 years from the date of its decision.
5. If the area is determined to be eligible for NC/O district designation, the planning and development director must schedule a public meeting for the purpose of informing property owners in the proposed district of the nature of the pending request. The planning and development director must send notice of the time and place of the meeting by mail to property owners within the proposed district and registered neighborhood organizations whose boundaries include all or a portion of the proposed NC/O district.
6. If the planning and development director determines the application is complete and the area is eligible, a letter of completeness and eligibility must be issued to the applicant. The decision of the planning and development director that an area is eligible for NC/O district designation may not be appealed.

#### **88-225-04-D. OTHER THAN PETITION INITIATED APPLICATIONS**

1. The city planning and development director must determine the eligibility of the application area in accordance with 88-225-03 and prepare the application in accordance with 88-225-02-D.
2. Once an area is determined eligible for NC/O district classification:
  - (a) A public meeting must be scheduled to inform property owners in the proposed district of the nature of the pending NC/O district request. The notice of the time and place of the meeting must be mailed to all property owners and registered neighborhood organizations in the proposed district.
  - (b) Following the initial meeting, community meetings must be held to receive input from property owners to determine the characteristics of the neighborhood and regulations needed in the NC/O district ordinance to preserve those characteristics. Planning staff will work with the neighborhood to create the standards and guidelines. A draft of the NC/O district ordinance will be made available for review.

**88-225-04-E. HEARING, RECOMMENDATION, AND FINAL ACTION**

1. The overlay design review board must hold a public hearing on the proposed NC/O district ordinance and standards and guidelines. Notices must be provided in accordance with 88-515-04. Following the close of the hearing, the overlay design review board must act in accordance with 0 to recommend to the city plan commission that the application for NC/O district designation be approved, approved with modifications, or denied. The overlay design review board may also act to continue the matter for further deliberation. If the overlay design review board does not act on an application for NC/O district designation within 60 days of the date of the public hearing, the proposed zoning amendment must be forwarded to the city plan commission with no recommendation.
2. The hearing and recommendation by the city plan commission must be in accordance with 88-515-06 except that the city plan commission may return the application to the overlay design review board for further consideration, together with a written explanation of the reasons for doing so.
3. The hearing and final action by the city council must be in accordance with 88-515-07.

**88-225-05 CERTIFICATE OF APPROPRIATENESS APPROVAL PROCESS**

**88-225-05-A.** All new construction, alterations to existing structures, exterior work visible from a public street or alley, movement of structures into or out of a NC/O district or demolition of structures by any means or process is subject to design review per the requirements of this article and the controlling NC/O district regulations. A certificate of appropriateness from the overlay design review board or city planning and development director as appropriate must be obtained prior to the issuance of a building permit.

**88-225-05-B.** No building or grading permit for such exterior work may be issued unless the work described in or occasioned by the permit conforms to all requirements of the controlling NC/O district.

**88-225-05-C.** In order to ensure that the proposal complies with controlling NC/O district regulations, an applicant for such certificate of appropriateness must:

1. submit all required materials to the city planning and development director as defined in the rules and regulations of the overlay design review board; and
2. receive approval of the plans or modify the plans in accordance with the recommendations of the overlay design review board or city planning and development director as appropriate. If the latter, the plans must be resubmitted to the planning and development director for final approval prior to the issuance of the building permit.

**88-225-06 ADMINISTRATIVE CERTIFICATES OF APPROPRIATENESS**

**88-225-06-A.** The city planning and development director is hereby authorized to issue administrative certificates of appropriateness for projects within an NC/O district without review by the overlay design review board if the proposed scope of work is under the purview of the planning and development director as defined in the ordinance establishing the NC/O district.

**88-225-06-B.** The city planning and development director may refer any project to the overlay design review board upon which it might not otherwise act, due to the complexity of the project or uncertainty as to its consistency with the district guidelines.

**88-225-06-C.** If the city planning and development director refuses to approve the certificate of appropriateness, the applicant may appeal to the overlay design review board and request an interpretation of the regulation affecting the applicant.

**88-225-06-D.** For city planning and development director certificate of appropriateness applications, public notice must be mailed to the applicant, property owners of sites directly abutting the subject parcel(s), and the site's NC/O design review board district representatives no less than 7 days prior to the scheduled date of determination. The notice must identify the subject parcel, describe the request, and identify the date of director determination on the administrative certificate of appropriateness application. The notice must also identify the opportunity to provide input prior to the determination and the right and rules to appeal the determination to the overlay design review board.

**88-225-06-E.** The city planning and development director must send a written report of all certificate of appropriateness applications submitted for staff approval along with decision notation for each NC/O district to the overlay design review board on a monthly basis.

## **88-225-07 OVERLAY DESIGN REVIEW BOARD REVIEW CERTIFICATES OF APPROPRIATENESS**

### **88-225-07-A. PUBLIC HEARING NOTICE**

Notices of public hearing must be provided in accordance with 88-515-04.

### **88-225-07-B. HEARING AND FINAL DECISION**

1. The overlay design review board must hold at least one public hearing on all certificate of appropriateness applications that are not eligible for staff approval. Following the close of the hearing, the board must act, in accordance with 0 to approve, approve with modifications or deny the application.
2. In the event of a tie vote or the inability of the overlay design review board to act on a certificate of appropriateness application under this section, the application will be deemed to have been denied.
3. The overlay design review board must enter its order and record in writing its decision and the facts upon which its decision were based. An order of approval must describe in detail the work that was approved, the approved materials, and the approved manner of carrying out the work.

**88-225-07-C.** The overlay design review board may grant a rehearing if the rehearing request includes new evidence to be presented that was not available at the time of the original hearing. The request for a rehearing must be made within 30 days of the date of the overlay design review board's original action. No more than one rehearing is permitted.

**88-225-07-D.** Appeals from certificate of appropriateness application decisions of the overlay design review board may be made to the board of zoning adjustment in accordance with 88-575.

**88-225-08 FAILURE TO COMPLY**

Any person who violates the provisions of the controlling NC/O district ordinance once established will be deemed in violation of this zoning and development code and the penalties and enforcement procedures set forth in 88-615 will apply.

**88-225-09 LAPSE OF APPROVAL**

Unless the applicant submits a fully completed building permit application necessary to bring about the approved project, or if no building permit application is required, substantially commences the approved project within 18 months from the date of approval, staff approval, overlay design review, or board of zoning adjustment approval will expire and be null and void. For the purposes of this section, the date of approval is the date on which the written notification is mailed to the applicant.

**88-225-10 REVIEW OF NC/O DISTRICT REGULATIONS**

Five years after the enactment of an NC/O district and every 5 years thereafter, the city planning and development director must review the appropriateness of the NC/O district regulations and recommend changes, modification or termination of the regulations to the overlay design review board if appropriate.

**88-225-11 CHANGE, MODIFY OR TERMINATE NC/O DISTRICT**

An application to change, modify or terminate an approved NC/O district must be filed with the city council. The process for approving or disapproving all proposed changes, modifications and terminations must be in accordance with the procedures of 88-225-04-E.

**88-230 P/O, PEDESTRIAN-ORIENTED OVERLAY**

**88-230-01 PURPOSE**

The regulations of this article are primarily intended preserve and enhance the character of pedestrian-oriented streets and, in turn, to promote street-level activity, economic vitality and pedestrian safety and comfort.

**88-230-02 APPLICABILITY**

The standards of this article apply to all development in P/O districts unless otherwise expressly stated.

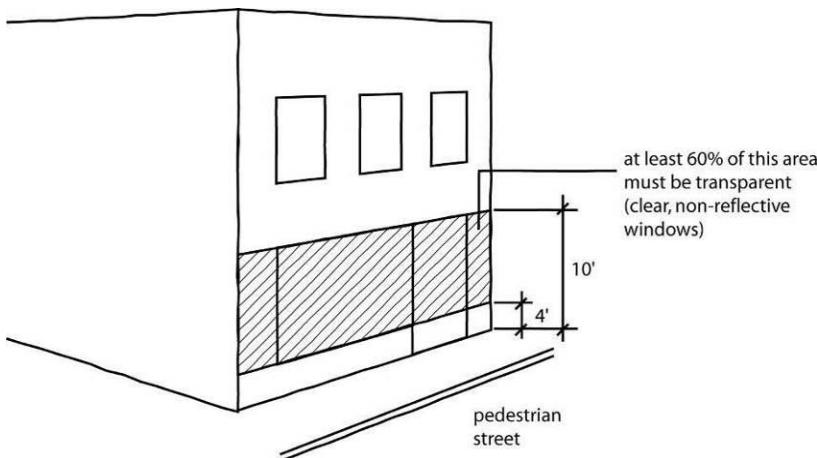
**88-230-03 STANDARDS**

**88-230-03-A.BUILDING PLACEMENT**

1. Buildings must abut the sidewalk or be located within 5 feet of the sidewalk along front property lines.
2. These building placement standards do not apply to permitted arcades, public plazas or parks or recessed entries.
3. Detached houses are exempt from these building placement standards.

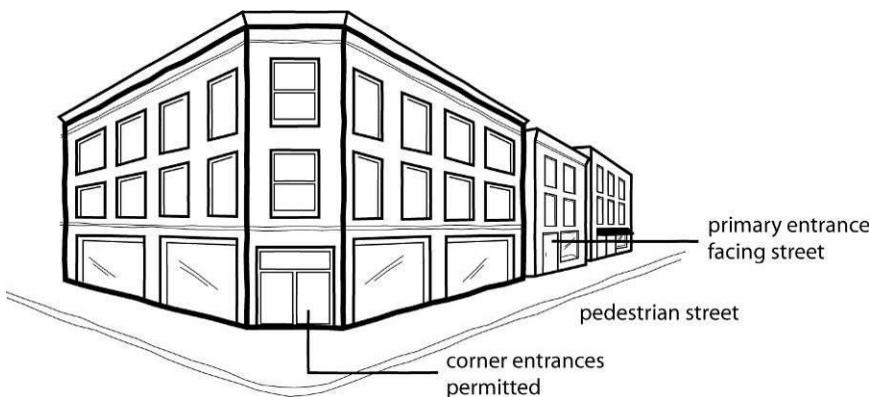
### **88-230-03-B. GROUND-FLOOR TRANSPARENCY**

1. At least 60% of the street-facing building façade between 4 feet and 10 feet above the sidewalk must be comprised of windows that allow views of indoor commercial space or product display areas. On corner lots, this 60% transparency requirement applies only along one street. The minimum transparency standard abutting secondary streets is 40%.
2. Display windows that do not provide views into the interior of the building may be counted towards satisfying up to 50% of the minimum transparency requirements, provided that they are internally illuminated and are at least 2 feet in depth.
3. The bottom of any window or product display window used to satisfy these transparency requirements may not be more than 4.5 feet above the adjacent sidewalk.



### **88-230-03-C. DOORS AND ENTRANCES**

1. Buildings must have a working public entrance door facing the street. Entrances at building corners may be used to satisfy this requirement.
2. Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas or courtyard entrances to a cluster of shops or businesses.



**88-230-03-D.PARKING**

1. No off-street parking is required for nonresidential uses unless such uses exceed 4,000 square feet of gross floor area, in which case off-street parking must be provided for the floor area in excess of 4,000 square feet (see 88-420 for off-street parking ratios).
2. Any off-street parking that is provided must be located behind the building or within or under the building.
3. When the depth of the lot is insufficient to permit required parking to the rear of the building, parking may be located to the side of the building, provided that it does not occupy more than 50% of the street frontage and it is screened from view of the street by a brick wall, wrought-iron or decorative fence or landscaping between 18 and 42 inches in height. Chain link fences are prohibited.

**88-230-03-E.DRIVEWAYS AND VEHICLE ACCESS**

Driveways and vehicle access, when provided, must come from an alley or side street if either is present.

**88-230-03-F.SIGNS**

All signs in P/O district must comply with the standards of Section 88-445-09.

**88-235 H/O, HISTORIC OVERLAY DISTRICT**

**88-235-01 PURPOSE**

The H/O, Historic Overlay district is intended to help protect, preserve and enhance places, districts, sites, buildings, structures, and other features having a special historical, architectural, cultural or aesthetic value. The H/O district is further intended to:

**88-235-01-A.**stimulate revitalization and preservation of the residential, civic and business areas;

**88-235-01-B.**promote economic progress through heritage tourism;

**88-235-01-C.**provide for the designation, protection, preservation, rehabilitation and restoration of historic districts and properties; and

**88-235-01-D.**facilitate the city's efforts to participate in federal or state historic preservation programs.

**88-235-02 EFFECT**

The H/O district is an overlay zoning classification that establishes additional restrictions and standards on those uses permitted by the underlying zoning district. In the event of conflict between the overlay zoning district regulations and the regulations of the underlying zoning district, the overlay zoning regulations govern. In all other cases, both the overlay zoning and underlying zoning regulations apply.

**88-235-03 USES**

The use regulations of the underlying zoning district govern. The H/O district does not impose any additional use restrictions.

### **88-235-04 DEVELOPMENT/DESIGN STANDARDS**

In establishing an H/O district, the landmarks commission and city plan commission are authorized to propose and the city council is authorized to adopt, district-specific development and design standards to guide development and redevelopment within the subject H/O district. When development and design standards have been approved, each application for new construction or alteration of an existing building within the designated H/O must comply with those standards. When there are conflicts between the standards of the underlying base zoning district and adopted H/O district design/development standards, the H/O design/development standards will govern.

### **88-235-05 ESTABLISHMENT OF H/O DISTRICT**

Historic Overlay districts may be established only in accordance with the procedures of Article 88-580.

### **88-235-06 REQUIREMENT FOR A CERTIFICATE OF APPROPRIATENESS**

The review and approval procedures and criteria for Certificate of Appropriateness are specified in Article 88-585.

## **88-250 SPECIAL PURPOSE DISTRICTS GENERALLY**

### **88-250-01 PURPOSE**

Like overlay zoning districts, special purpose zoning districts are tools for dealing with special situations or accomplishing special planning and zoning goals. Unlike overlay districts, special purpose districts are base zoning classifications; they do not over-lay other base zoning districts.

### **88-250-02 ESTABLISHMENT**

Special purpose zoning districts may be established, amended or removed only in accordance with the zoning map amendment procedures of Article 88-515.

## **88-255 SC, SHOAL CREEK DISTRICT**

### **88-255-01 PURPOSE AND INTENT**

**88-255-01-A.** The SC, Shoal Creek district is intended for application only the Shoal Creek development, which was originally approved through the (former) master planned community (MPC) regulations. The district is intended to accommodate and encourage specific design criteria that will be environmentally sensitive, public service-efficient and demonstrate progressive and innovative land planning, site planning, engineering and architectural methods and techniques. The district provides a method to address the concerns identified in the comprehensive plan of the city and issues related to providing basic public services, such as water and sewer extensions, construction of public streets and use of open space.

**88-255-01-B.** The SC district is further intended to:

1. identify sensitive use and protection of the natural environment and open space consisting of natural features, undisturbed areas, greenbelts, parks, plazas and landscaped areas for the use and enjoyment of all residents and visitors;
2. preserve and enhance existing man-made and natural environs on the site;

3. create individual neighborhoods limited in size to optimize the pedestrian experience;
4. provide a variety of housing types to promote a diversity of housing stock and neighborhoods;
5. provide a variety of retail, office and commercial uses to offer local employment;
6. provide a network of interconnecting streets within the neighborhood that serve pedestrians and automobiles in a safe, aesthetic and efficient manner;
7. provide a neighborhood design that accommodates a variety of transportation modes and transit systems;
8. designate sites for civic buildings, focal points, landmarks, public open space and community identity;
9. define public space and create a diverse environment by establishing proportions governing building setbacks, bulk, form and character;
10. support compact and mixed use development patterns that reduce long commutes, retain open spaces and minimize costs for public services and facilities;
11. advance new and innovative master planning, site planning, engineering and architectural methods and techniques;
12. encourage flexibility and creativity in proposing new planning concepts that are responsive to changing economic and market conditions; and
13. encourage the location of new community anchors along existing or proposed transit corridors to create critical mass.

#### **88-255-01-C.APPLICABILITY**

SC zoning may be applied only to lands included within the Shoal Creek development originally approved through the MPC, master planned community provisions of the zoning ordinance in effect prior to June 1, 2010.

#### **88-255-02 GENERAL REQUIREMENTS**

**88-255-02-A.**A master plan must be prepared for all of the land area included within the proposed SC district, in compliance with the regulations and requirements of this article.

**88-255-02-B.**An application for SC zoning must be accompanied by a community master plan and a traffic study.

**88-255-02-C.**No land proposed for any SC district, the location of which would include land both within and outside the city limits, may be considered. The portions lying within the city and outside the city limits will be considered separately and not as part of the entire development.

#### **88-255-03 COMMUNITY MASTER PLAN**

A community master plan is a narrative and illustrative plan which presents a unified and organized strategy for development and service facilities having a logical relationship to the property as a whole. A community master plan must consist of all of the following:

**88-255-03-A.** Project summary setting forth a general description of the overall development, a survey of existing conditions including existing zoning districts, vegetation, slopes, water resources and floodplains and a division of the land into subareas based upon a natural or man-made physical boundaries which are referred to individually as a “neighborhood.”

**88-255-03-B.** Land use plan, including a graphic plan designating acreage and general locations for proposed uses, written development standards that identify permitted uses, quantify the intensity of uses and establish parking, building height and setback requirements. The land use plan may propose subdistricts within the district and provide for particular standards within each subdistrict. For purposes of the SC district, “subdistrict” is an area within the overall SC that may incorporate general requirements of the SC district or that may have standards distinct and unique from other areas within the SC.

**88-255-03-C.** Infrastructure plan, including a traffic impact study, street sections and provisions for public utilities, street lighting and storm drainage facilities to serve the site.

**88-255-03-D.** Community facilities plan, including provisions for parks and recreation facilities, open space, school, fire stations and other public safety facilities.

**88-255-03-E.** Community design plan, describing the design intent for the community as a whole and the neighborhoods that comprise the community through community-wide design goals, objectives and guiding principles depicted in an illustrative plan.

**88-255-03-F.** Implementation and outline of the processes required to initiate construction and provide management and administration for the community as it builds out.

#### **88-255-04 USES**

In the SC district, no building or land may be used and no building may be erected, altered or enlarged, which is arranged, intended or designed for other than one or more of the following uses and which meets the performance standards set forth in 88-255-05.

#### **88-255-04-A.PRINCIPAL USES**

1. Apartments (including, but not limited to, row houses, and townhouses).
2. Bakery.
3. Banks, credit unions, savings and loan associations and other financial services .
4. Barbershops or beauty shops.
5. Bus or other transit stations for passenger pickup and discharge only.
6. Churches, synagogues, mosques, schools, libraries, community centers, private clubs, recreational areas, museums and art galleries.
7. Clinics and hospitals.
8. Day care facilities.
9. Gas/convenience stores.
10. Gyms and health clubs.
11. Hotels.
12. Light industrial uses.

13. Offices – administrative, professional, general, and medical.
14. Public parking lots or stations for passenger cars or taxicabs.
15. Repair shops for motor vehicles, appliances and household items.
16. Residential dwellings: Detached houses, attached houses and two-unit houses
17. Restaurants excluding “drive-in” and “drive-thru” restaurants unless specifically designated in the development plan.
18. Retail sales and services.
19. Studios.
20. Theaters.
21. Veterinary services.
22. Warehouses.

**88-255-04-B.ACCESSORY USES**

Any use which is accessory and incidental to any enumerated principal use is permitted if it meets the performance standards set forth in 88-255-05.

**88-255-04-C.OTHER USES**

Any use (including a temporary use) not specifically set forth herein, and not a prohibited use, may be considered as a permitted use when specifically shown and identified in any community master plan.

**88-255-04-D.PARKING AND LOADING**

Except as specified in the community master plan, the parking and loading provisions of 88-420.

**88-255-05 PERFORMANCE STANDARDS**

The following provisions, standards and specifications apply uniformly to all uses in an SC district.

**88-255-05-A.**All activities, including all storage involving flammable and explosive materials, must be limited to an area with adequate safety devices against the hazard of fire and explosion, adequate fire-fighting and fire suppression equipment and devices standard in the industry.

**88-255-05-B.**Burning of waste materials in open fires is prohibited at any point unless authorized by fire department permit, subject to such conditions as may be prescribed by the fire department in each case. The relevant provision of state and local laws and regulations also apply.

**88-255-05-C.**No activities are permitted that violate the Requirements and Standards of the Radiation Protection Regulations of the Missouri State Board of Health, and no electrical disturbance or any disturbance resulting from radio or television transmission will be tolerated which affects adversely the operation at any point of any equipment other than that of the creator of such disturbance.

**88-255-05-D.**At the point of measurement specified herein the sound pressure level of noise radiated from a facility at nighttime may not exceed 40 decibels or the average sound level

of the street traffic noise nearest the noise generator, whichever is higher, in any octave band of frequency above 300 cycles per second.

1. Between the hours of 6:00 am and 8:00 pm the sound pressure level of noise radiated from a facility may not exceed 65 decibels in residential areas and 95 decibels in all other areas, or 10 decibels above the average sound level of the existing background noise in the locality of the noise generator, whichever is higher, in an octave band of a frequency above 300 cycles per second.
2. The sound pressure level must be measured with a sound level meter and an octave-band analyzer that conform to the specifications published by the American Standards Association.
3. Below 300 cycles per second maximum sound pressure must conform to the following table:

<b>Octave Band</b> (cycles per second)	<b>Decibels</b>
0–75	70
75–149	60
150–300	50
More than 300	40

4. Notwithstanding the foregoing, nothing set forth herein will be deemed to authorize any activity which would otherwise be considered a violation of chapter 46, Code of Ordinances.

**88-255-05-E.** No vibration is permitted that is discernible without instruments at the points of measurement.

**88-255-05-F.** No emission is permitted at any point, from any chimney or otherwise, of visible grey smoke of shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc. and copyrighted 1954 (being a direct facsimile reproduction of the Standard Ringlemann Chart as issued by the United States Bureau of Mines), except that visible grey smoke of a shade equal to No. 2 on said chart may be emitted for 4 minutes in any 30 minutes. Notwithstanding the foregoing, nothing set forth herein will be deemed to authorize any activity which would otherwise be considered a violation of Chapter 8, Code of Ordinances.

**88-255-05-G.** No emission is permitted of odorous gases or other odorous matter in such quantities as to be unreasonably offensive at the points of measurement.

**88-255-05-H.** No emission is permitted that which can cause excessive soiling at any point. Fly ash or other particulate matter resulting from the burning of combustible materials may not exceed a loading in the stack or vent gases of eighty-five one hundredths point per 1000 pounds of conveying gas (twenty-five one hundredths grain per cubic foot measured at 5000 and 50% excess air).

**88-255-05-I.** No direct or sky-reflected glare is permitted, whether from floodlight, high temperature processes such as combustion or welding or otherwise which are unreasonably objectionable at the points of measurement. All lights must be so installed as to deflect from adjacent residential developments and streets.

**88-255-05-J.** No discharge is permitted at any point into any public sewer, private sewage disposal system, stream or into the ground, of any materials of such nature or temperature which may contaminate any water supply, interfere with the orderly operation of public sewage collection and treatment systems or otherwise cause the emission of dangerous or offensive elements except in accord with standards approved by the appropriate state and local officials, or standards equivalent to those approved by said authorities for similar uses.

**88-255-05-K.** No outside storage of any kind is permitted.

**88-255-05-L.** No land or building in the SC district may be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazards (including possible potential hazards), noise vibration, smoke, dust, odor, or other form of air pollution, heat, cold, dampness, electrical or other substance, condition or element (referred to herein as "dangerous and objectionable elements") in such a manner or in such amount as to adversely affect the surrounding area. Nor may any activity not expressly prohibited by this section be undertaken and maintained unless it conforms to the regulations limiting dangerous and objectionable elements at the point of the determination of their existence.

## **88-255-06 PUBLIC IMPROVEMENTS**

The SC district is intended to provide not only a mix of uses and dwelling types and uses but to also encourage the use of alternative standards for public improvements based on the approved community master plan. The community master plan must specify the variations from the city's *Standards, Specifications and Design Criteria* for streets, sidewalks, storm sewers, streetlights and any other public improvement if variations are proposed. In addition to identification of such variations, the community master plan must describe under which circumstances the variations may be used. In the course of carrying out the community master plan, additional variations to the city's *Standards, Specifications and Design Criteria* for public improvements may be requested to the city's *Standards, Specifications and Design Criteria* for public improvements by the applicant for review and approval by the appropriate city department. Regional detention facilities are encouraged and should be considered.

## **88-255-07 NEIGHBORHOOD PLAN**

**88-255-07-A.** After establishment of an SC district but prior to approval of any final plan or final plat affecting an area within a neighborhood, the applicant must submit for approval a neighborhood plan identifying the improvements for storm drainage, sanitary sewer, water lines, street construction and park dedication. Prior to the submission of the neighborhood plan, the applicant must submit a proposal to conduct a meeting in the vicinity of such Neighborhood Plan to solicit comments from adjoining property owners. The neighborhood plan must be reviewed and approved by the appropriate city department prior to any approval of a final plan or final plat for the neighborhood.

**88-255-07-B.** A neighborhood plan is a narrative and illustrative plan which presents a program for public facilities related to the neighborhood as a whole. A neighborhood plan must consist of all of the following:

1. Land use plan, including a graphic plan designating acreage and locations for proposed uses, preliminary yields for each identified permitted use within the neighborhood and preliminary lots or parcels with configuration and dimensions.

2. Infrastructure plan, including a proposed street and public right-of-way layout, capacity and dimensions and utilities master studies to establish capacities, sizing and linkages with off-site facilities.
3. Community facilities plan, including general locations and sizes of public and private parks, open space and other community facilities (schools, public safety and other similar uses).
4. Community design for neighborhood with design guidelines addressing architecture and materials, landscaping, fencing and signage.
5. Implementation with subarea and construction phasing, private design review details, and timing of dedication and construction of public and private facilities.

## **88-255-08 FINAL PLAT AND FINAL PLAN**

### **88-255-08-A.FINAL PLAT**

Prior to the issuance of a building permit for any construction within an SC district, the area included within the building permit must be platted. At the option of the applicant, any portion of the community master plan may serve also as the preliminary subdivision plat. Such option must be declared prior to the hearing before the city plan commission. At the time of submission of a final plat, the applicant for the final plat must provide an audit of the neighborhood development as of the date of the submission of the application for a final plat demonstrating that densities established by the community and neighborhood plans have not been exceeded and further that the audit identify the existing parkland dedication and any deficiencies or surpluses in the amount of required dedication.

### **88-255-08-B.FINAL PLAN**

1. Prior to the issuance of any building permit within the area zoned SC, the applicant for the building permit must present a final plan for review and approval by the city plan commission. In the case of single-family (detached house) residential development, the final plat will serve as the final plan. The final plan must include specific information regarding the location of the proposed use on the property subject to the final plan defined by legal description, precise setback distances, specific methods of light, landscaping, grading and architectural characteristics, if required, and any other information necessary to effectuate the purpose of the district. The city plan commission must consider whether the final plan is in substantial compliance with the intent of the community master plan and consistent with the neighborhood plan including any variations or modifications approved by the planning and development director as part of the neighborhood plan approval process. If the city plan commission determines that the final plan is in compliance with the approved community master plan, the commission must approve the final plan and so advise the city planning and development director. If the city plan commission determines that the final plan is not in substantial compliance with the approved plans, the applicant may elect to proceed as identified in 88-255-09.
2. At the time of approval of the final plan (or final plat for residential) the applicant may request and the commission may approve variations or modifications to the

bulk and area standards requested by the applicant subject to consideration of the following criteria:

- (a) The modification is limited to a use specifically set forth for the subdistrict or a use which is compatible with other uses permitted in the subdistrict;
- (b) The modification is limited to application of the standards of the subdistrict and may not permanently alter such standards;
- (c) Except for the specific modification, the other standards of the subdistrict will remain in effect;
- (d) The modification must reflect the spirit and intent of the SC district as a whole and must maintain any unique planning design which are inherent to the development of the neighborhood area.
- (e) Absent approvals provided herein the standards for a subdistrict (or incorporated provisions of other zoning regulations) apply without exception.

3. In the course of implementing the approved final plan, certain revisions or adjustments of detail may be permitted if approved by the planning and development director. However, such revision or adjustment of detail must be in substantial compliance with the final plan approved by the city plan commission. If the planning and development director finds that such revisions or adjustments of detail are not in conformance with the approved final plan, the applicant may submit a new final plan to the city plan commission for its review and approval.

#### **88-255-09 AMENDMENTS TO APPROVED PLANS**

**88-255-09-A.** If the city plan commission determines that the final plan is not in substantial compliance with the approved community master plan subject to any variations or modifications submitted as part of the final plan or final plat (as provided above), the commission must deny the request. The applicant may resubmit a revised final plan which does conform with the approved community master plan or may file an amended community master plan in the same manner as provided for a zoning map amendment. Provided, however, if the community master plan identifies neighborhoods, no amendment need include information other than that required to amend the neighborhood plan notwithstanding any other provision to the contrary.

**88-255-09-B.** The perimeter boundaries of an established SC district may be modified from time to time by the original applicant or its assignee in the same manner as provided for a zoning map amendment. Such modification may be to an existing neighborhood or may establish a new neighborhood or may be to an existing subdistrict.

#### **88-260 UR, URBAN REDEVELOPMENT DISTRICT**

##### **88-260-01 PURPOSE**

The purpose of the UR, Urban Redevelopment district is to promote development and redevelopment of underdeveloped and blighted sections of the city and to accommodate flexibility in design to help ensure realization of the stated purposes of an approved redevelopment plan. UR districts are further intended to promote the following objectives:

- 88-260-01-A.**a more efficient and effective relationship among land use activities;
- 88-260-01-B.**preservation and enhancement of natural, cultural and architectural resources and features;
- 88-260-01-C.**enhancement of redevelopment areas to accommodate effective redevelopment; and
- 88-260-01-D.**seamless and compatible integration of redevelopment projects into the development patterns that exist or that are planned to exist within the subject area.

## **88-260-02 REZONING PROCEDURE; ELIGIBILITY FOR UR ZONING**

**88-260-02-A.**Property may be rezoned to the UR district in accordance with the zoning map amendment procedures of 88-515, except as modified by the specific provisions of this article. An application for an urban redevelopment district must be accompanied by a development plan. The plan must include information as required by city planning and development department staff.

**88-260-02-B.**The UR district may be applied only to property that has been designated as a blighted area, a conservation area, or an economic development area.

**88-260-02-C.**Designation of an area as a blighted area, a conservation area, or an economic development area must follow the provisions of the Land Clearance for Redevelopment Law (RSMo 99.300), Real Property Tax Increment Allocation Redevelopment (RSMo 99.800), Urban Redevelopment Corporations Law (RSMo ch. 353) or Planned Industrial Expansion Authority (RSMo 100.300).

**88-260-02-D.**Designation as a blighted area, a conservation area, or an economic development area and approval of a redevelopment plan should occur simultaneously with the processing of a zoning map amendment to the UR district and city plan commission review. The city plan commission must conduct a public hearing on the application for UR zoning and forward its recommendation to city council.

**88-260-02-E.**An application for a UR district may not be considered by the city council until after the statutory agency has recommended the declaration of the area as a blighted area, a conservation area, or an economic development area and has recommended approval of the development plan for the area.

## **88-260-03 USE REGULATIONS AND LOT AND BUILDING STANDARDS**

Properties within the UR district are subject to the use regulations and lot and building standards established at the time of development plan approval by the city council. The use and development standards established for the subject UR district must be in general conformance with the approved area plan and be compatible with desirable land use and development patterns in the surrounding area.

## **88-260-04 OTHER DEVELOPMENT STANDARDS**

Properties within the UR district are subject to the development standards found within the 400 Series of this zoning and development code unless otherwise expressly approved by the city council at the time of development plan approval.

## **88-260-05 SITE PLANS**

**88-260-05-A.**No building permit may be issued for development in the UR district until a site plan has been approved in accordance with the minor site plan review procedures of Article 88-530, except that:

1. a building permit may be issued for nonconforming uses and structures without an approved site plan; or
2. the owner of any property that is the subject of eminent domain but that has not been acquired by the condemning authority may continue to use the property for any use existing immediately preceding establishment of UR district. At the time of request for a permit, the property owner must file an affidavit with the city planning and development director stating that the property owner is not in any way affiliated with the condemning authority and further has no intention of securing any of the benefits provided under the redevelopment plan approved pursuant to the declaration of blight.

**88-260-05-B.**The site plan must be reviewed for compliance with the preliminary development plan approved by city council at the time of rezoning to the UR district. If it is determined that the minor site plan does not conform to the requirements of the preliminary development plan approved by city council at the time of rezoning, the city planning and development director must notify the developer in writing of the specific deficiencies that exist. Upon receipt of the notice of noncompliance, the developer has the following options:

1. correct the site plan to conform to the approved preliminary development plan;
2. file a preliminary development plan amendment request pursuant to 88-260-06; or
3. file an appeal of the minor site plan review decision in accordance with 88-530-11.

## **88-260-06 AMENDMENTS TO APPROVED PRELIMINARY DEVELOPMENT PLANS**

**88-260-06-A.**In the course of carrying out any part of the development plan for a UR district, the developer may submit a request for an amendment of the preliminary development plan approved at the time of rezoning to the UR district. Requests to amend a preliminary development plan must be processed as a zoning map amendment in accordance with 88-515 except that the city planning and development director is authorized to approve minor amendments to UR district preliminary development plans in accordance with the administrative adjustment procedures of Article 88-570 (see specifically, 88-570-02-H).

**88-260-06-B.**If any development plan covering all or a portion of a UR district is abandoned, or if any phase is not completed within the time frame established at the time of rezoning and preliminary development plan approval, or if the required declaration of blighted area, conservation area, or economic development area is declared null and void by any court of competent jurisdiction, the city planning and development director may recommend that the area be rezoned to its former or other appropriate classification.

## **88-265 US, UNDERGROUND SPACE DISTRICT**

**88-265-01 PURPOSE**

The US, Underground Space district is a special purpose zoning district established for the following purposes:

- 88-265-01-A.**to accommodate and permit the reasonable utilization of underground space;
- 88-265-01-B.**to protect other properties and persons from adverse effects caused by activities in underground space; and
- 88-265-01-C.**to protect the health, safety and welfare of persons in or around underground facilities.

**88-265-02 ESTABLISHMENT OF DISTRICT**

**88-265-02-A.**The US district may be established when either of the following conditions exists:

1. Where usable underground space exists; or
2. Where limestone or other subsurface-located material intended to be extracted exists that adjoins an existing US district or where the surface land at the entrance has an M zoning classification.

**88-265-02-B.**The US zoning classification may be established, amended or removed only in accordance with the zoning map amendment procedures of Article 88-515. The only difference is that the US district provisions apply only to the subsurface and do not affect the zoning classification of the surface above the US district.

**88-265-02-C.**The initial designation or amendment must be accompanied by a certified survey map showing the extent of existing underground mining and all points of access to the surface, whether they are vehicle entrances or other entrances for ventilation or utility purposes.

**88-265-03 USES**

The following uses are permitted by right in the US district:

**88-265-03-A.**Any use permitted by right or by special use permit in the zoning district controlling the surface property at the primary entrance (that having the most traffic) to the underground space is permitted in the US district under the same terms as apply in the surface district.

**88-265-03-B.**When not allowed by the surface zoning classification, extraction may be allowed by special use permit in accordance with Article 88-525.

**88-265-03-C.**Other allowed uses may be identified for the subject US district by the city council at the time the US district is established, provided that such use is not otherwise prohibited by the building code, fire code or other relevant city ordinance.

**88-265-04 STANDARDS AND REQUIREMENTS**

Underground space in the US district is subject to the following standards and requirements:

**88-265-04-A.BUILDING PERMITS**

Underground space must have a valid building permit to develop a habitable underground building and to qualify for a certificate of occupancy.

**88-265-04-B.ACCESS**

The entrances to all US district must be through property owned or controlled by the owners or operators of the underground space. Such entrance property must connect immediately to the major thoroughfare system, without first proceeding through or by other properties; or such entrances must be on property properly zoned to contain the uses developed within the underground space.

**88-265-04-C.SAFETY**

In order to qualify for building permits or certificates of occupancy, the owners or operators of underground space must have on file with the city plan commission a certificate by a registered professional engineer regarding the structural integrity of the underground space. Such certificate may provide for exceptions or conditions that must be adhered to as a condition of building permit approval. Certificates will be valid for newly added or mined-out areas if so indicated on the certificate. Such certificate must be dated within the past 10 years to be valid for its application to new areas.

**88-265-04-D.SURFACE ZONING EXCLUSION**

With the exceptions as noted in this section, all US districts are separate from the provisions of the surface zoning districts even though they may underlie them.

**88-265-04-E.SURFACE AND SPECIAL EASEMENTS**

Penetrations from US districts to the surface property above it are permitted without regard to conforming to the provisions of such surface zoning district, provided that such penetrations are for the purpose of connecting utilities or to contain safety, relief or life-support systems to the underground. All penetrations must be contained within a special easement to the underground development owner or operator to ensure its perpetuity or continued service to the safety and convenience of the underground development, or, if appropriate, to the city.

**88-265-04-F. BUILDING REGULATIONS**

Building regulations relating to underground space can be found in §18-261 et seq.

**88-270 AG-R, AGRICULTURAL-RESIDENTIAL DISTRICT**

**88-270-01 PURPOSE**

The AG-R, Agricultural-Residential district is primarily intended for areas of the city on the outer edge of urbanized development. Subdivision of land to higher density development is usually premature, due to lack of adequate utility services, roadways and other transportation systems. Land use regulations and lot and building standards are primarily geared to agricultural activities and very low-density residential development.

## **88-270-02 ALLOWED USES**

### **88-270-02-A. USES PERMITTED SUBJECT TO SITE PLAN APPROVAL**

The following uses are permitted as of right in the AG-R district, subject to major site plan review and approval in accordance with Article 88-530.

1. Utilities and Services
2. Funeral and Interment Service (cemetery/columbarium/mausoleum only)
3. School
4. Religious Assembly
5. Park/Recreation
6. Sports and Recreation, Participant (Outdoor)
7. Entertainment and Spectator Sports
8. Lodging (camp grounds only)
9. Animal Service (veterinary only)
10. Horticultural services
11. Nurseries for trees, plants, and shrubs including retail sale when grown on the premises
12. Mining and quarrying, subject to Article 88-350-02-D (asphalt plants and concrete mixing plants may be allowed as accessory uses)
13. Wireless communication facilities, subject to 88-385.

### **88-270-02-B. USES PERMITTED WITHOUT SITE PLAN APPROVAL**

The following uses are permitted as of right in the AG-R district without approval of a site plan in accordance with Article 88-530.

1. Detached houses
2. Railroad right-of-way
3. Agriculture, crop
4. Orchards
5. Truck gardening
6. Agriculture, Crop or Animal
7. Agricultural services, such as grist milling, corn shelling, hay baling and threshing services
8. Sorting, grading and packaging of fruits and vegetables, and retail fruit and vegetable stands for products grown on the premises

**88-270-02-C.** Uses not expressly permitted or authorized by the city planning and development director as similar uses are prohibited in the AG-R district.

**88-270-02-D.SPECIAL STANDARDS ADJACENT TO PARKS, BOULEVARDS AND PARKWAYS**

RESERVED

**88-270-03 LOT AND BUILDING STANDARDS**

**88-270-03-A.MAXIMUM BUILDING HEIGHT**

Three stories

**88-270-03-B.MINIMUM LOT AREA**

1. For detached houses: 40 acres
2. For religious assembly and elementary schools: 5 acres
3. For secondary junior and senior high schools and institutions of higher learning: 10 acres

**88-270-03-C.SETBACKS**

Minimum setback from all property lines: 30 feet, provided that detached houses may, as an alternative, provide a rear setback of not less than 20 feet for decks and balconies that are 500 square feet or smaller in area.

**88-275 KCIA, AIRPORT DISTRICT**

**88-275-01 PURPOSE**

The KCIA, Airport district is primarily intended to promote airport and/or conservation uses in the immediate vicinity of Kansas City International Airport and to limit residential development and certain commercial uses that are incompatible with the use of the airport and related airport uses. The KCIA district is further intended to provide services to the airport and related airport services.

**88-275-02 USES**

**88-275-02-A.** The following uses are permitted as of right in the KCIA district:

1. Agriculture, Crop or Animal
2. Agricultural services, such as grist milling, corn shelling, hay baling and threshing services, including sorting, grading and packaging of fruits and vegetables, and retail fruit and vegetable stands for products grown on the premises
3. Airports, public, including passenger and freight terminals, aircraft storage, maintenance and related services for aircraft and air passengers
4. Eating and Drinking Establishments
5. Entertainment and Spectator Sports
6. Funeral and Interment Service (cemetery/columbarium/mausoleum only)
7. Gasoline and Fuel Sales
8. Lodging
9. Manufacturing, Production and Industrial Services

10. Mining and Quarrying subject to Article 88-350-02-D
11. Park/Recreation
12. Railroad right-of-way
13. Religious Assembly
14. Retail Sales
15. Sports and Recreation, Participant
16. Utilities and Services
17. Other commercial and industrial uses that are compatible with airport operations.

**88-275-02-B.** Uses not expressly permitted or authorized by the city planning and development director as similar uses are prohibited in the KCIA district.

**88-275-02-C.SPECIAL STANDARDS ADJACENT TO PARKS, BOULEVARDS AND PARKWAYS**

RESERVED

**88-275-03 LOT AND BUILDING STANDARDS**

**88-275-03-A.MAXIMUM BUILDING HEIGHT**

None, except as may be limited by FAA or airport-related regulations.

**88-275-03-B.MINIMUM LOT AREA**

5 acres.

**88-275-03-C.SETBACKS**

Minimum setback from all property lines: 30 feet.

**88-280 MPD, MASTER PLANNED DEVELOPMENT DISTRICT**

**88-280-01 PURPOSE**

**88-280-01-A.GENERAL**

The MPD, Master Planned Development district is intended to accommodate development that may be difficult if not impossible to carry out under otherwise applicable zoning district standards. Examples of the types of development that may benefit from the MPD zoning tool include the following:

1. **ENHANCED PROTECTION OF NATURAL RESOURCE AREAS**  
Developments that offer enhanced protection of natural resources and sensitive environmental features, including streams, water bodies, floodplains, wetlands, steep slopes, woodlands, wildlife habitats and native plant communities.
2. **TRADITIONAL URBAN DEVELOPMENT**  
Developments characterized by lot configurations, street patterns, streetscapes, and neighborhood amenities commonly found in urban neighborhoods platted or otherwise created before the 1950s.

**3. MIXED-USE DEVELOPMENT**

Developments that contain a complementary mix of residential and nonresidential uses.

**88-280-01-B. SPECIFIC OBJECTIVES**

Different types of MPDs will promote different planning goals. In general, however, MPDs are intended to promote the following objectives:

1. flexibility and creativity in responding to changing social, economic and market conditions and that results in greater public benefits than could be achieved using conventional zoning and development regulations;
2. implementation and consistency with the city's adopted plans and policies;
3. efficient and economical provision of public facilities and services;
4. sustainable, long-term communities that provide economic opportunity and environmental and social equity for residents;
5. variety in housing types and sizes to accommodate households of all ages, sizes, incomes and lifestyle choices;
6. compact, mixed-use development patterns where residential, commercial, civic, and open spaces are located in close proximity to one another;
7. a coordinated transportation systems that includes a inter-connected hierarchy of appropriately designed improvements for pedestrians, bicycles, and vehicles;
8. compatibility of buildings and other improvements as determined by their arrangement, massing, form, character and landscaping to establish a high-quality livable environment;
9. the incorporation of open space amenities and natural resource features into the development design;
10. low-impact development (LID) practices; and
11. attractive, high-quality landscaping, lighting, architecture and signage that reflects the unique character of the development.

**88-280-02 UNIFIED CONTROL**

No application for MPD zoning approval will be accepted or approved unless all of the property included in the application is under unified ownership or a single entity's control.

**88-280-03 PROCEDURE**

MPDs must be reviewed and approved in accordance with the procedures of Article 88-520.

**88-280-04 DEVELOPER'S STATEMENT OF INTENT**

Each MPD application must include a written explanation from the applicant describing the community benefits of the proposed development and how the proposed development provides greater benefits to the city than would a development carried out in accordance with otherwise applicable zoning and development code standards.

**88-280-05 USE REGULATIONS AND LOT AND BUILDING STANDARDS**

The use regulations and lot and building standards that apply within a MPD zoning district must be established at the time of development plan approval by the city council. Allowed uses, residential densities and nonresidential intensities must be consistent with any approved plans for the area.

**88-280-06 OTHER DEVELOPMENT STANDARDS**

**88-280-06-A.** Unless otherwise expressly approved by the city council at the time of development plan approval, properties within the MPD district are subject to all other applicable provisions of this zoning and development code. The city council is authorized to approve MPDs that deviate from strict compliance with otherwise applicable standards of this zoning and development code if they determine that the resulting development provides a greater level of public benefit than would normally be expected for projects developed in strict compliance with this zoning and development code.

**88-280-06-B.** The MPD district is expressly intended to accommodate the use of alternative standards for public improvements based on the approved development plans. The preliminary development plan must specify the deviations from the city's *Standards, Specifications and Design Criteria* for streets, sidewalks, stormwater management and any other public improvement if deviations from otherwise applicable standards are proposed.

**88-280-07 APPROVAL CRITERION**

MPD zoning may be approved only when the city council, after receiving the recommendation of the city plan commission, determines that the proposed development cannot be reasonably accommodated by other available regulations of this zoning and development code, and that a MPD would result in a greater benefit to the city as a whole than would development under conventional zoning district regulations. Such greater benefit may include implementation of adopted planning policies, natural resource preservation, urban design, neighborhood/community amenities or a general level of development quality.

**300 SERIES • • USE REGULATIONS**

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## **88-305 ACCESSORY USES AND STRUCTURES**

### **88-305-01 GENERAL**

#### **88-305-01-A.ACCESSORY USES ALLOWED**

Accessory uses and structures are permitted in connection with any lawfully established principal use unless otherwise expressly provided in this zoning and development code. Also, unless otherwise expressly stated, accessory uses and structures are subject to the same regulations as the principal use or structure on the subject lot.

#### **88-305-01-B. INCIDENTAL AND SUBORDINATE NATURE**

The city planning and development director is authorized to determine when a use, building or structure meets the definition of an accessory use or accessory structure. In order to classify a use or structure as “accessory,” the city planning and development director must determine that the use or structure:

1. is subordinate to the principal building or principal use in terms of area, extent and purpose;
2. contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and
3. is customarily found in association with the subject principal use or building.

#### **88-305-01-C.TIME OF CONSTRUCTION**

Accessory structures must be constructed in conjunction with or after the principal building. They may not be built prior to the construction of the principal building.

#### **88-305-01-D.LOCATION**

Accessory uses and structures must be located on the same lot as the principal use to which they are accessory, except as otherwise expressly stated.

#### **88-305-01-E.ACCESSWAYS**

Driveway providing access to uses in nonresidential districts may not traverse land in R districts.

### **88-305-02 LOT AND BUILDING STANDARDS IN RESIDENTIAL DISTRICTS**

#### **1. GENERAL**

The lot and building standards of the base zoning district apply to accessory structures in residential districts unless otherwise expressly stated.

**2. SETBACKS**

- (a) Accessory buildings and structures are prohibited in front and street side yards (i.e., they may not be closer to the street than the principal building), except for structures that are customarily found in front or street yards, such as flag poles and minor landscape structures.
- (b) Accessory buildings and structures must be set back at least 1.5 feet from rear property lines, except that garages accessed from an alley and carriage houses are not required to be set back from a rear property line abutting an alley. Swimming pools must be set back at least 10 feet from rear property lines, and structures designed to contain animals must be set back at least 30 feet from rear property lines.
- (c) Accessory buildings and structures must be set back at least 1.5 feet from interior side property lines, except that accessory buildings and structures are not required to be set back from an interior side property line that abuts an alley. Swimming pools must be set back at least 10 feet from side property lines, and structures designed to contain animals must be set back at least 30 feet from interior property lines.

**3. SEPARATION**

Accessory buildings must be separated by a minimum distance of 10 feet from all other accessory and principal buildings located on the same lot and by a minimum distance of 20 feet from any principal residential building located on an abutting lot.

**4. HEIGHT**

Accessory buildings may not exceed 10 feet in height, except that detached garages may be up to 16 feet in height and allowed carriage houses may be up to 28 feet or 2 stories in height.

**5. FOOTPRINT AREA**

The building footprint (ground level building coverage) of an individual, detached accessory building may not exceed 200 square feet, except that:

- (a) the building footprint of a detached accessory garage may be up to 800 square feet or one square foot of building footprint area for each 10 square feet of lot area, whichever is greater; and
- (b) the building footprint of a carriage house may be up to 1,500 square feet.

**6. BUILDING COVERAGE**

The total combined footprint area of all detached accessory buildings and structures may not exceed 40% of the actual rear yard area.

## **88-305-03 LOT AND BUILDING STANDARDS IN NONRESIDENTIAL DISTRICTS**

### **1. GENERAL**

The lot and building standards of the base zoning district apply to accessory structures in nonresidential districts unless otherwise expressly stated.

### **2. SETBACKS**

The setback standards of the underlying zoning district apply to accessory structures in nonresidential districts except as follows:

- (a) Accessory buildings and structures are prohibited in front and street side yards (i.e., they may not be closer to the street than the principal building), except for structures that are customarily found in front yards, such as flag poles and minor landscape structures.
- (b) Accessory buildings and structures on lots abutting R districts must be set back in accordance with the accessory structure setback standards that apply in residential districts (See 88-305-02).

### **3. SEPARATION**

Accessory buildings must be separated by a minimum distance of 10 feet from all other accessory and principal buildings.

### **4. HEIGHT**

Accessory buildings may not exceed 25 feet in height, or the height of the principal building on the same lot, whichever is less.

## **88-305-04 HOME OCCUPATIONS**

### **88-305-04-A.GENERAL**

Home occupations are accessory uses to uses in the household living category. The regulations of this section are primarily intended to ensure that home occupations in R zoning districts will not be a detriment to the character and livability of the surrounding residential neighborhood. The regulations are also intended to ensure that the home occupation remains subordinate to the residential use, and that the residential viability of the dwelling is maintained. The regulations also recognize that many types of work can be done in a home with little or no effect on the surrounding neighborhood.

### **88-305-04-B.APPLICABILITY**

Home occupations are allowed in R districts only if they comply with all of the standards of this section.

### **88-305-04-C.EXEMPTIONS**

#### **1. HOME-BASED DAY CARE**

Home-based day care facilities are not regulated as home occupations and are exempt from the regulations of this section.

**2. BED AND BREAKFAST**

Bed and breakfast uses are not regulated as home occupations and are exempt from the regulations of this section.

**88-305-04-D.STANDARDS**

A dwelling unit may be used for one or more home occupations subject to compliance with all of the following minimum standards:

1. The home occupation must be accessory and secondary to the use of a dwelling unit for residential purposes, and the home occupation must not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.
2. All employees must reside in the dwelling unit in which the home occupation is located.
3. No separate entrance from the outside of the building may be added to the residential building for the sole use of the home occupation.
4. There may be no internal or external structural alterations or construction, nor the installation of any equipment that would change the residential character of the property upon which the home occupation is located. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, and the addition of commercial-like exterior lighting.
5. The home occupation and all related activities, including storage, must be conducted completely within an enclosed building.
6. No home occupation may produce or emit any noise, vibration, smoke, dust, or other particulate matter, odorous matter, heat, humidity, glare, or any other effect that unreasonably interferes with any person's enjoyment of their residence.
7. Hazardous substances are prohibited, except that consumer quantities are allowed. Consumer quantities of hazardous substances are packaged and distributed in a form intended or suitable for sale through retail sales outlets for consumption by individuals for purposes of personal care and household use.
8. One non-illuminated wall sign, not exceeding 80 square inches in area may be displayed.
9. Truck deliveries or pick-ups of supplies or products, associated with the home occupation, are allowed at the home only between 8 am and 7 pm. Vehicles used for delivery and pick-up may not include heavy trucks.
10. The following uses are expressly prohibited as home occupations:
  - (a) any type of repair or assembly of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chain saws, and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to automobiles and their parts;
  - (b) dispatch centers or other businesses where employees come to the site and are dispatched to other locations;

- (c) businesses in which more than 2 customers are present at any one time; and
- (d) animal grooming, care or boarding.

## **88-305-05 CARRIAGE HOUSES**

### **88-305-05-A. WHERE PERMITTED**

Carriage houses are allowed only when:

1. they were constructed before March 1, 2005;
2. they are located on property designated as an historic landmark or located in an historic district; and
3. they are located in an R7.5, R-6, R-5 or R-2.5 district.

### **88-305-05-B. MINIMUM LOT AREA**

1. In R-7.5, R-6 and R-5 districts, a carriage house may be maintained or altered only on a lot that contains a minimum area of 12,000 square feet and that contains a principal building used exclusively for the purposes of no more than one dwelling unit.
2. In the R-2.5 district, a carriage house may be maintained or altered only on a lot that contains a minimum area of 22,000 square feet and that contains a principal building used exclusively for the purposes of no more than:
  - (a) one dwelling unit; or
  - (b) two dwelling units provided that one of the units is owner-occupied and further provided that one of the non-owner-occupied units is occupied only by children and/or parents of the owner-occupant, and any spouses of a child or parent.

## **88-305-06 SATELLITE DISH ANTENNAS**

**88-305-06-A.** Satellite dish antennas up to one meter (39.4 inches) in diameter are permitted as accessory uses in all districts. They are subject to accessory structure setback standards.

**88-305-06-B.** Satellite dish antennas over one meter in diameter, up to 3 meters (118.2 inches) in diameter, are a permitted as accessory uses in all nonresidential districts, subject to accessory structure setback standards.

**88-305-06-C.** Satellite dish antennas may be erected on the roof or attached to a principal building, provided the maximum height of the installation does not exceed the maximum allowable height of the subject district or more than 15 feet above the top of the building on which it is to be located, whichever is less. Satellite dish antennas that are mounted on the roof or attached to the building must be located in a manner so as to detract as little as possible from the architectural character of the building.

**88-305-06-D.** Satellite dish antennas not expressly allowed under the provisions of this section require special use permit approval.

### **88-305-07 SWIMMING POOLS**

Swimming pools with a depth of more than 2 feet must be enclosed by a protective fence at least 4 feet in height. The fence must include self-closing, lockable gates or entrances when the pool is not tended by a responsible person.

### **88-305-08 RESIDENTIAL SUPPORT SERVICES**

**88-305-08-A.** Residential support services are allowed in R zoning districts as accessory uses to independent living homes, assisted living homes, retirement homes, convalescent homes, nursing homes or multi-unit buildings containing more than 50 dwelling units.

#### **88-305-08-B. STANDARDS**

Residential support services must:

1. be located in the same structure as the principal residential use;
2. occupy, in aggregate, no more than 5,000 square feet or 10% of the floor area of the principal residential use, whichever is less, with no single individual residential support service use occupying more than 2,500 square feet;
3. primarily serve only the occupants, residents, or employees of the principal residential use or their guests;
4. have no exterior signage (interior signage is permitted) on the building; and
5. have no separate external public entrances.

## **88-310 ADULT BUSINESSES AND ADULT MEDIA**

### **88-310-01 SEPARATION OF ADULT BUSINESSES FROM OTHER ADULT BUSINESSES**

Not more than 2 adult businesses may be located within 1,500 feet of each other (regardless of whether such uses are located in the same facility, separate facilities or different zoning districts) as measured in a straight line along street rights-of-way between the property lines of the 2 properties.

### **88-310-02 ADULT MOTION PICTURE THEATERS, SEX SHOPS, AND ADULT MEDIA STORES**

#### **88-310-02-A. PROTECTED USES AND ZONING DISTRICTS**

Adult motion picture theaters, sex shops, and adult media stores must be separated from the following protected uses and zoning districts:

1. property containing a house of worship;
2. property containing a public or licensed educational institution that serves persons younger than 18 years of age;
3. property containing a day-care facility;
4. public park,
5. property containing a community center,

6. property containing a children's amusement park;
7. library;
8. museum;
9. cultural exhibit;
10. recreation area;
11. playground; or
12. R (residential) zoning district.

**88-310-02-B. GENERAL LOCATION REQUIREMENT**

No adult motion picture theater, sex shop or adult media store may be located on the same block with any of the protected uses or zoning districts identified in 88-310-02-A.

**88-310-02-C.DISTANCE REQUIREMENTS**

1. Adult motion picture theaters may not be located within 1,000 feet of any of the protected uses or zoning districts identified in 88-310-02-A.
2. Sex shops may not be located within 800 feet of any of the protected uses or zoning districts identified in 88-310-02-A.
3. Adult media stores may not be located within 600 feet of any of the protected uses or zoning districts identified in 88-310-02-A.

**88-310-02-D.MEASUREMENT**

Separation requirements must be measured from property-line to property-line, following the route of property lines along public rights-of-way (to approximate pedestrian distances). For leased spaces in multi-tenant properties, the measurements must be from the outer boundaries of the leased space (projected to ground level, if applicable); for leased space in single-tenant properties, the measurements must be from the property lines.

**88-310-03 BUSINESSES CARRYING ADULT MEDIA**

**88-310-03-A.APPLICABILITY**

This section applies to any book store, media store or video store, in which adult media constitutes more than 10% but not more than 40% of the stock in-trade, or where adult media occupies more than 10% but not more than 40% of the gross public floor area.

**88-310-03-B. PROHIBITION OF PUBLIC DISPLAY**

The owner or operator of a store to which this section is applicable has the affirmative duty to prevent the public display of adult media at or within the portions of the business open to the general public.

**88-310-03-C.DISPLAY OF ADULT MEDIA**

Adult media in a store to which this section is applicable must be kept in a separate room or section of the store, which room or section must:

1. not be open to any person under the age of 18;

2. be physically and visually separated from the rest of the store by an opaque wall of durable material, reaching at least 8 feet high or to the ceiling, whichever is less;
3. be located so that the entrance to it is as far as reasonably practicable from media or other inventory in the store likely to be of particular interest to children; and
4. have access controlled by electronic or other means to provide assurance that persons under age 18 will not gain admission and that the general public will not accidentally enter such room or section.

#### **88-310-04 MOTION PICTURE ARCADE BOOTHS**

Motion picture arcade booths and motion picture arcade booth establishments are expressly prohibited in the CX/O district and in all other zoning districts, regardless of whether such uses are determined to be principal or accessory uses.

### **88-315 ANIMAL SERVICE**

#### **88-315-01 STANDARDS**

The use standards of this section apply to animal service uses:

**88-315-01-A.** Shelter or boarding must be within a soundproofed and air-conditioned building.

**88-315-01-B.** All animal boarding and shelter facilities must be located in completely enclosed buildings.

**88-315-01-C.** Domestic animals may be exercised in a designated and fenced area outside the building with an attendant present.

**88-315-01-D.** All outdoor runs or exercise areas must be hard surfaced or grass.

**88-315-01-E.** A landscaping, screening, and fencing plan to shield the use from adjoining properties and/or public right-of-way must be submitted for approval.

#### **88-315-02 NOISE LIMITS**

There may be no noise disturbance across property lines into any residential district exceeding 60 dB(A) between the hours of 7 a.m. and 10 p.m. and 55 dB(A) between the hours of 10 p.m. and 7 a.m.

### **88-320 BED AND BREAKFAST**

#### **88-320-01 APPLICABILITY**

Bed and Breakfast establishments in R-80, R-5, R-2.5, R-1.5, R-0.5, and R-0.3 districts are subject to the following standards in addition to any standards imposed as part of the special use approval process.

#### **88-320-02 STANDARDS AND CONDITIONS**

**88-320-02-A.** The establishment must be operated by the owner of the dwelling unit, who must live on the property;

**88-320-02-B.** At least one off-street parking space must be provided per 2 guest rooms;

**88-320-02-C.** The building in which the bed and breakfast is located must have a minimum floor area of 3,000 square feet;

**88-320-02-D.** The bed and breakfast may not contain more than 4 guest rooms in R-5 or R-2.5 districts or more than 8 guest rooms in any other district;

**88-320-02-E.** Food service may be provided for resident guests only;

**88-320-02-F.** Bed and breakfast establishments may not be leased or offered for use as reception space, party space, meeting space or other similar events open to non-resident guests; and

**88-320-02-G.** One non-illuminated wall sign, not exceeding 80 square inches in area, may be displayed. No window or other display or sign may be used to advertise such use.

## **88-325 CHECK-CASHING, TITLE LOAN, AND SHORT-TERM LOAN ESTABLISHMENTS**

**88-325-01** Check-cashing establishments, title loan establishments and short-term loan establishments are subject to the following conditions and restrictions:

**88-325-01-A.** At the time of original approval, no such establishment must be located within one mile of another check-cashing establishment, title loan establishment, short-term loan establishment, or pawnshop. This separation distance must be measured from the point on the outer wall of the building housing each establishment which is closest to the other establishment.

**88-325-01-B.** At the time of original approval no such establishment must be located within one mile of a hotel or motel.

**88-325-01-C.** At the time of original approval no such establishment must be located within 1,000 feet of a package liquor store, school, religious institution, senior citizen housing development, museum, or a property or district which has been designated as a landmark or historic district.

**88-325-01-D.** Such establishment may be operated only as a principal use of a property and may not be accessory to any other use. A short-term loan establishment may not operate any accessory uses.

**88-325-01-E.** At the time of original approval, no such establishment may be located on a lot contiguous with or directly across the street or an alley from any property zoned R-10, R-7.5, R-6, R-5, R-2.5, R-1.5, R-0.5, or R-0.3.

**88-325-01-F.** The applicant must demonstrate that there will be no negative impact on properties within 500 feet of the proposed establishment.

**88-325-01-G.** The permit is limited to a 2-year period but may be renewed by the board after a public hearing; provided, however, at the time of renewal, the applicant must demonstrate that the establishment has not had a negative impact on properties within 500 feet and that the establishment has complied with the provisions of chapter 56, the property maintenance code.

## **88-330 DAY CARE**

### **88-330-01 FAMILY DAY CARE**

Family day care homes in AG-R, R-80, R-10, R-7.5, R-6, R-5, and R-2.5 districts are subject to the following standards:

**88-330-01-A.** The primary use of the premises must be residential.

**88-330-01-B.** The use must be primarily carried on or conducted by members of a family residing in the dwelling.

**88-330-01-C.** All open play areas must be completely enclosed with a tight fence at least 4 feet in height.

### **88-330-02 GROUP DAY CARE**

Group day care facilities may be allowed in R-80, R-10, R-7.5, R-6, R-5, and R-2.5 districts subject to the following standards::

**88-330-02-A.** The property must have a minimum lot area of 20,000 square feet and must have a minimum lot width of 100 feet.

**88-330-02-B.** At least 500 square feet of lot area must be provided per each enrollee.

**88-330-02-C.** Side setbacks must be at least 100% greater than the minimum side setback required in the district.

**88-330-02-D.** At least 100 square feet of open play space must be provided on the lot for each enrollee.

**88-330-02-E.** All open play areas must be completely enclosed with a tight fence at least 4 feet in height.

**88-330-02-F.** The property must front on a collector or higher classification street.

## **88-331 Day Labor Employment Agency**

### **88-331-01 Standards**

**88-331-01-A.** At the time of original approval, no such establishment shall be located within 1,000 feet of another day labor establishment, or within 500 feet of a children's nursery or boarding home, a group day care home, a daycare facility, a school, or a package liquor store, as measured in a straight line from the lot line of the affected properties.

**88-331-01-B.** At the time of original approval, no such establishment shall be located on a lot contiguous with or directly across the street or an alley from any property zoned Residential.

**88-331-01-C.** Parking with paving and screening shall be as required by section 88-420 and 88-425. Adequate off-street paved surfaces shall be provided for the loading and unloading of workers in conformance with chapter 52 and section 88-420 .

**88-331-01-D.** The applicant shall demonstrate that there shall be no negative impact on properties within 500 feet of the proposed establishment.

**88-331-01-E.** The permit shall be limited to a two-year period but may be renewed by the board after a public hearing; provided, however, at the time of renewal, the applicant shall demonstrate that the establishment has not had a negative impact on properties within 500 feet and that the establishment has complied with the provisions of chapter 56, the property maintenance code.

## **88-335 DETENTION AND CORRECTIONAL FACILITIES**

### **88-335-01 STANDARDS**

Detention and correctional facilities are subject to the following standards:

**88-335-01-A.** The property must have a minimum lot area of 2 acres.

**88-335-01-B.** No such facility may be located on property located within 1,000 feet of R zoning district or within 1,000 feet of any residential dwelling unit; school; library, museum, or cultural exhibit; community center; park; religious assembly; or day care use.

**88-335-01-C.** All outdoor recreation areas and all structures to be occupied by inmates must be set back a minimum of 200 feet in the R-80 district and 25 feet in M districts.

**88-335-01-D.** The property on which the facility is to be located must provide a minimum lot area of 350 square feet per occupant.

## **88-340 DRIVE-THROUGH FACILITIES**

### **88-340-01 STANDARDS**

The nearest point of the drive-through operation of any establishment, including the drive-through lane, menu board, and payment and pick-up windows must be at least 50 feet from the boundary of a residentially zoned district.

### **88-340-02 PLAN REQUIRED**

A plan portraying adequate landscaping, screening, landscaping, berthing, or other buffering must be submitted for approval.

## **88-345 FUNERAL AND INTERMENT SERVICE**

### **88-345-01 CEMETERIES**

The following standards apply to cemeteries in R-0.5, R-0.3, DC, CX, and B-1 districts:

**88-345-01-A.** The property must consist of not less than 5 acres of land in a single tract or parcel not intersected or divided by any street, alley or property belonging to any other owners; provided that this 5-acre requirement does not apply if the funeral home is located within a cemetery that consists of at least 50 acres of land.

**88-345-01-B.** The property must have at least a 500-foot frontage on a major thoroughfare.

**88-345-01-C.**The entrance and exit must be directly to and from a major thoroughfare or parkway.

**88-345-01-D.**No principal building or accessory building must be within 100 feet of the boundary of an adjoining property which is located in an R-10 through R-0.3, inclusive, O, and B-1 district. No driveway or parking area must be within 25 feet of the boundary of an adjoining property which is located in an R-10 through R-0.5 district, inclusive. For any funeral home located within a cemetery consisting of at least 50 acres of land, no setbacks are required from the cemetery property.

## **88-345-02 CREMATION**

**88-345-02-A.**In addition, the following use standard applies for cremation establishments in R-10 through R-0.3, inclusive, B-1 through B-4 district, inclusive, as part of the special use approval process:

**88-345-02-B.**Cremation must be in conjunction with a cemetery, columbarium, or mausoleum.

## **88-350 GROUP LIVING AND NURSING HOMES**

### **88-350-01 APPLICABILITY AND STANDARDS**

Group living uses in R districts are subject to the following standards:

**88-350-01-A.**Group living uses are allowed only in the types of residential buildings allowed in the subject zoning district, as identified in 88-110-040.

**88-350-01-B.**Lots to be occupied by group living uses must have at least 500 square feet of lot area per resident or patient, based on the maximum resident/patient capacity.

### **88-350-02 NURSING HOMES**

In addition, the following use standards apply for nursing homes in R-80, R-10, R-7.5, R-6, R-5, R-2.5 as part of the special use approval process:

**88-350-02-A.**The property must have a minimum lot area of 20,000 square feet and must have a minimum lot width of 100 feet.

**88-350-02-B.**Side yards must be at least 100 percent greater than the side yard required in the district.

**88-350-02-C.**Off-street parking must be provided for on the basis of one space for each living unit, or, in the case of dormitory design, one space for each four beds and one space for each four employees.

**88-350-02-D.**The number of beds, if dormitory design, may not exceed 6 times the number of dwelling units per square foot of lot area in the district in which the use is located; or the number of living units may not exceed twice the number of dwelling units per square foot of lot area in the district in which the use is located.

## **88-355 MINING AND QUARRYING**

### **88-355-01 DISTANCE FROM PROPERTY LINES**

No mining or quarrying operation may be carried on or any stock pile placed closer than 50 feet to any property line.

### **88-355-02 FENCING**

Fencing must be erected and maintained around the entire site or portions of the site where fencing is necessary for the protection of the public safety, as determined by the city planning and development director.

### **88-355-03 EQUIPMENT**

All equipment and machinery must be operated and maintained in such manner as to minimize dust, noise, and vibration. Access roads must be maintained in dust-free condition by surfacing or other treatment as may be specified by the city planning and development director.

### **88-355-04 PROCESSING**

The crushing, washing, and refining or other similar processing may be allowed as an accessory use, provided that such accessory processing complies with all applicable local, state, and federal standards.

### **88-355-05 APPLICATION—CONTENTS, PROCEDURE**

An application for approval of a mining or quarrying operation must be submitted to the city planning and development director and include the following information:

**88-355-05-A.** Name of the owner or owners of land from which removal is to be made;

**88-355-05-B.** Name of the applicant making request for such a permit;

**88-355-05-C.** Name of the person or corporation conducting the actual removal operation;

**88-355-05-D.** Location, description and size of the area from which the removal is to be made;

**88-355-05-E.** Location of processing plant used;

**88-355-05-F.** Type of resources or materials to be removed;

**88-355-05-G.** Proposed method of removal and whether or not blasting or other use of explosives will be required;

**88-355-05-H.** Description of equipment to be used; and

**88-355-05-I.** Method of rehabilitation and reclamation of the mined area.

### **88-355-06 REHABILITATION**

To guarantee the restoration, rehabilitation, and reclamation of mined areas, every applicant granted a mining permit must furnish a performance bond or other city-approved financial guarantee running to the city, in an amount established by the city plan commission at the time of special use approval. The amount of the performance bond or other approved financial guarantee

must be adequate to ensure that the applicant, in restoring, reclaiming, and rehabilitating such land, will within a reasonable time meet the following minimum requirements:

**88-355-06-A. SURFACE REHABILITATION**

All excavation must be made either to a water-producing depth, such depth to be not less than 5 feet below the low water mark, or must be graded or backfilled with non-noxious, non-flammable, and non-combustible solids, to secure:

1. That the excavated area will not collect and retain stagnant water; or
2. That the surface of such area that is not permanently submerged is graded or backfilled as necessary to minimize erosion due to rainfall and that will be in substantial conformity with the topography of the adjoining land area.

**88-355-06-B. VEGETATION**

Vegetation must be restored by appropriate seeding of grass or planting of shrubs or trees in all parts of the mining area.

**88-355-06-C. BANKS OF EXCAVATION**

The banks of all excavations not backfilled must be sloped to the water line at a slope that will not be less than 3 feet horizontal to one foot vertical and the bank must be seeded and stabilized.

**88-360 NEIGHBORHOOD-SERVING RETAIL**

**88-360-01 STANDARDS**

**88-360-01-A.** Neighborhood-serving retail uses must be located in an existing structure, originally constructed for occupancy by a business use; and

**88-360-01-B.** The gross floor area of the business may not exceed the floor area of the existing structure or 2,500 square feet, whichever is less.

**88-365 PUBLIC AND CIVIC USES**

**88-365-01 APPLICABILITY**

Public and civic uses in R zoning districts (except for day care uses referenced in 88-330) are subject to the standards of this article.

**88-365-02 USES OF LAND PERMITTED SUBJECT TO SPECIFIC CONDITIONS**

In R districts, public and civic uses must be located in accordance with at least one of the following situations:

**88-365-02-A.** On a corner lot immediately adjacent to or across from a public park, public playground, or a parkway which has a right-of-way width of 120 feet;

**88-365-02-B.** On a parcel or tract of land entirely surrounded by any combination of highways, streets, alleys, or railway rights-of-way;

**88-365-02-C.** On a lot immediately adjacent to any R-1.5 to M-3.5 district, inclusive or on a corner lot immediately opposite on the other side of a street from an R-1.5 to M-3.5 district, inclusive; or

**88-365-02-D.** On any other adjoining lot or group of adjoining lots approved the special use approval process.

### **88-365-03 LARGE-SCALE PUBLIC ASSEMBLY USES IN R ZONING DISTRICTS**

**88-365-03-A.** The potential impact of large-scale public assembly uses (on residential areas) can best be evaluated through the special use approval process. Therefore, public and civic use types that typically involve assembly are generally regulated according to their size. These uses are identified in the residential use table (88-110-03-A) as permitted/special ("P/S") uses. Uses identified as "P/S" uses are allowed subject to certain requirements unless they meet the definition of a large-scale use. For purposes of this section, a large-scale use is a use located on a lot that is 5 or more acres in area or the use of a lot of any size for any of the following: (1) buildings with an occupant capacity of more than 500 persons; or buildings with a combined gross floor area of more than 50,000 square feet.

**88-365-03-B.** All accessory parking for large-scale public and civic uses in R districts (whether required to meet ordinance minimums or elective [extra] parking) must be located on the same lot as the principal use unless otherwise expressly approved through the special use permit process.

### **88-365-04 SETBACKS**

All principal buildings are subject to the setback and building height standards of the underlying zoning district, except that principal buildings on lots with a lot width or 100 feet or more must provide side setbacks of at least 25 feet in depth.

### **88-365-05 PARKING**

Parking may be located in side or rear yards only, and must be set back at least 15 feet from any side or rear lot line.

## **88-370 TEMPORARY USES**

### **88-370-01 DESCRIPTION AND PURPOSE**

**88-370-01-A.** A temporary use is the use of property conducted from an area or structure (e.g., parking lots, lawns, trucks, tents, or other temporary structures) that does not require a building permit and that may not comply with the use or lot and building standards of the zoning district in which the temporary use is located.

**88-370-01-B.** The temporary use regulations of this article are intended to permit such occasional, temporary uses and activities when consistent with the purposes of this zoning and development code and when the operation of the temporary use will not be detrimental to other nearby uses.

### **88-370-02 AUTHORITY TO APPROVE**

**88-370-02-A.** Except as expressly stated in 88-370-03, all temporary uses require city approval.

**88-370-02-B.** The city planning and development director is authorized to approve temporary uses that comply with the provisions of this article and to impose conditions on

the operation of temporary uses that will help to ensure their general compatibility with surrounding uses.

**88-370-02-C.** The city planning and development director is also authorized to require that temporary use requests be processed as special use permits in accordance with Article 88-525.

**88-370-03 EXEMPTIONS**

The following are permitted as temporary uses without complying with the permit requirements of this section:

**88-370-03-A.** Garage sales conducted in R districts or on lots occupied by residential dwelling units for no more than 6 days total in any calendar year; and

**88-370-03-B.** Temporary uses of no more than 3 days duration conducted on city parkland or public property, provided such uses have been approved by the parks board or other duly authorized city official.

**88-370-04 AUTHORIZED USES**

The following may be approved as temporary uses when the city planning and development director or other authorized decision-making body determines that the operation of such use will be generally compatible with surrounding uses and will not be detrimental to public safety:

**88-370-04-A.** Christmas tree and similar holiday sales lots;

**88-370-04-B.** Outdoor carnivals;

**88-370-04-C.** Outdoor concerts and festivals;

**88-370-04-D.** Outdoor religious revivals;

**88-370-04-E.** Construction yards and offices;

**88-370-04-F.** Temporary sales offices;

**88-370-04-G.** Auctions; and

**88-370-04-H.** Similar uses and activities.

**88-370-05 TIME LIMIT**

Temporary uses may be permitted for a maximum of 45 days unless the city planning and development director expressly approves a longer time limit. Upon expiration of a temporary use permit, another permit for the same premises may not be obtained for at least 30 days. The applicant must submit a written explanation of the length of time needed for the temporary use.

**88-370-06 PROCEDURE**

Upon receipt of a complete application for a temporary use, the city planning and development director must review the proposed use for its likely effects and surrounding properties and its compliance with the general provisions of this article. The city planning and development director may impose such conditions of approval as are necessary to ensure compliance with this article.

**88-370-07 TEMPORARY PORTABLE STORAGE CONTAINERS**

Temporary portable storage containers are an allowed temporary, accessory use on lots containing a dwelling, subject to all of the following.

**88-370-07-A.** On lots developed with detached houses:

1. Temporary portable storage containers are permitted for a period not to exceed a total of 30 days within any consecutive 6-month period. However, in cases where a dwelling has been damaged by natural disaster or casualty, the city planning and development director is authorized to allow a temporary portable storage container for a longer period.
2. Temporary portable storage containers may not exceed a cumulative gross floor area of 260 square feet.
3. Temporary portable storage containers may not be located in a setback abutting a street unless located on a driveway or other paved surface.

**88-370-07-B.** On lots developed with residential buildings other than detached houses:

1. Temporary portable storage containers are permitted for a period not to exceed 72 hours within any consecutive 6-month period. However, in cases where a dwelling has been damaged by natural disaster or casualty, the city planning and development director is authorized to allow a temporary portable storage container for a longer period.
2. Temporary portable storage containers may not exceed a cumulative gross floor area of 130 square feet for each dwelling unit.
3. Temporary portable storage containers may not be located in a setback abutting a street unless located on a driveway or other paved surface.

**88-370-07-C.** Temporary portable storage containers may not exceed 8.5 feet in height.

**88-370-07-D.** Temporary portable storage containers may not be located in any required open space, landscaped area, on any sidewalk or trail, or in any location that blocks or interferes with any vehicular and/or pedestrian circulation.

**88-370-07-E.** Signs on temporary portable storage containers must comply with all applicable sign regulations of this zoning and development code.

**88-370-07-F.** Rail cars, semi-trailers, and similar structures may not be used for temporary or permanent storage on lots containing a dwelling.

**88-375 VEHICLE STORAGE AND TOWING**

**88-375-01 APPLICABILITY**

Vehicle storage and towing uses, including tow lots and impound yards, must be developed and operated in compliance with the standards of this article.

**88-375-02 LOCATION**

All vehicle storage areas must be located at least 500 feet from any R district and may not be located on lots with frontage on parkways or boulevards.

## **88-375-03 OUTDOOR STORAGE**

All outdoor vehicle storage areas must be shielded by an opaque fence or wall that is a minimum of 6 feet tall and a maximum of 10 feet tall. The interior of the fence or wall must be protected by a guardrail or similar barrier to prevent damage to the fence or wall. All vehicles, equipment, and inventory of the business must be stored behind the fence or wall and may not exceed the height of the fence or wall.

## **88-380 WASTE-RELATED USES**

### **88-380-01 DEMOLITION DEBRIS LANDFILLS**

#### **88-380-01-A.PROHIBITIONS**

Demolition debris landfills may not be used for the disposal of hazardous materials, refuse, trash, garbage, or any other material specifically designated in other ordinances of the city to be disposed of in any other type landfill or facility.

#### **88-380-01-B.APPLICATIONS**

In addition to all information generally required to be submitted with a special use application, an applicant for a demolition debris landfill must submit at least the following supplemental information:

1. ownership of the property; and
2. a plat of the property drawn to scale, showing legal description, the boundary of the property, the boundary of proposed fill, existing topography, finish topography, existing easements, access and any watercourses or drainage systems.

#### **88-380-01-C.REVIEW BY OTHER AGENCIES**

Upon the filing of an application, the city planning and development director must forward the application to the fire and public works departments. The city planning and development director is also authorized to forward the application to any other agencies with jurisdiction or expertise in evaluating such facilities. Each of the reviewing agencies may make the necessary investigations to determine the feasibility of the site and its proposed use, and may make written recommendations prior to the public hearing on the special use application.

#### **88-380-01-D.STANDARDS AND CONDITIONS**

All approved demolition debris landfills are subject to the following standards and conditions:

1. Demolition debris landfills must be properly protected from use by anyone other than the applicant.
2. Applicants for approval have sole responsibility for maintenance and care of the demolition debris landfill area.
3. All demolition debris landfills must be compacted by the use of machines for this purpose as the fill is introduced into the landfill area.
4. All demolition debris landfills must be operated so that they do not violate any city ordinances, state statutes, or federal laws relating to the health, safety, or

general welfare of the inhabitants of the city, and may not have an adverse impact on water supplies or waterways, air or the visual environment.

5. At such time as the landfill reaches the finished topography as approved, the final 12 inches must be earth cover and must be properly graded and seeded by the applicant or otherwise landscaped and improved in accordance with plans approved at the time of special use approval.

**88-380-01-E. TIME LIMIT**

No special use permit for a demolition debris landfills may be approved for a period longer than 5 years duration. Extensions of the approved time period may be approved through a new special use application and hearing.

**88-380-01-F. SUPPLEMENTAL REGULATIONS**

The director of public works may promulgate rules and regulations pertaining to the operation of the demolition debris landfill so as to accomplish the purpose and intent of this zoning and development code and the city code.

**88-380-01-G. INSPECTIONS**

Employees of the city have the right to enter upon the site to make all reasonable inspections.

**88-380-02 SOLID WASTE SEPARATION FACILITIES AND TRANSFER STATIONS**

Solid waste separation facilities and transfer stations must comply with all of the following standards:

**88-380-02-A.** Any such use must be conducted entirely within a building completely enclosed with walls and a roof.

**88-380-02-B.** The building that contains the solid waste separation facility or transfer station must be located at least 600 feet from any residential zoning district.

**88-380-02-C.** In addition to the use of the property for a solid waste separation facility or a transfer station, other uses may be approved through the special use approval process, provided that such uses are depicted on the site plan and approved at the time of special use permit approval.

**88-380-02-D.** A site plan for a solid waste separation facility or a transfer station must be submitted to and approved as part of the special use permit application and must include the following information:

1. A drawing, to scale, of the proposed uses, both principal and accessory, and the location of such uses on the site. The site plan must also provide a time schedule by phases for implementation.
2. Metes and bounds perimeter description and ownerships of individual parcels, with legal descriptions, if applicable.
3. Plan of the property drawn to a scale of one inch equals 200 feet or larger showing legal description, boundary of property, boundary of proposed solid waste separation facility or transfer station, existing topography with contours of five-foot intervals or less to NGVD of 1929 or city datum, existing easements and utilities, access, 100 year floodplain and watercourses or drainage systems. For

horizontal control, the plans of the property and engineering drawings and grading plans must be based on the Missouri State Plane Coordinate System (West Zone) 1983 North American Datum (NAD-1983).

4. Phasing plan for location and description of the solid waste separation facility or the transfer station and other related uses and parking on the site.
5. Traffic study identifying truck traffic and other vehicular traffic to and from the site, streets to be used for such traffic, peak hour trips, and total trips per day based on hours of operations. Access must be provided from a street improved to a width and thickness sufficient to withstand truck traffic, require a minimum of turning maneuvers, may not adversely impact current and future traffic volume, may not negatively affect future development along the access street and has appropriate signalization.
6. Method of operation of the solid waste separation facility or the transfer station including types of waste processed or separated; hours of operation; control of dust, odor, noise, rodents and birds, and control and pickup of litter and debris from both on-site and off-site areas and roadways; routes of collection trucks directly to the site.
7. Landscape planting plan of the area.
8. Any other information necessary for a determination as to the suitability of the area for the use.

**88-380-02-E.** A permit must be issued for a specified period. The city plan commission may renew the permit upon expiration.

**88-380-02-F.** The city plan commission may impose such conditions related to the operation, site development, signs, times of operation or any other matter that the board deems necessary in order to ensure that such use does not materially injure or curtail the appropriate use of neighboring property; does not jeopardize the public health, safety and welfare; and does not violate the general spirit or intent of this zoning and development code. The special use permit may be revoked at any time by the board upon notice to the permit holder and after a hearing before the city plan commission when violations of any provision of the Code of Ordinances has occurred.

## **88-385 WIRELESS COMMUNICATION FACILITIES**

### **88-385-01 PURPOSE**

#### **88-385-01-A.CO-LOCATION AS CITY POLICY**

Wireless communication providers are encouraged to co-locate at single sites unless technically and economically impossible. This goal recognizes that the reduction in the number of facilities may result in an increase in the height of facilities that are permitted.

#### **88-385-01-B. INDUSTRY COOPERATION**

Wireless communications providers should work together to develop a network of wireless communications facilities and sites that all providers can share to minimize the number of facilities.

**88-385-02 BUILDING PERMIT REQUIRED**

The construction of a wireless communications facility requires a building permit. In addition to the requirements of the building code, an applicant for a building permit must meet the requirements of this article. In this article, the term "applicant" means the entity wishing to place a wireless communications facility in the city.

**88-385-03 SITE PLAN**

When seeking a building permit, an applicant must submit a site plan showing the conditions required by this article, and other applicable regulations, including Chapter 25, "Communications Transmissions Systems," Code of Ordinances, and Chapter 2, Article VI, Division 8, "Landmarks Commission," Code of Ordinances.

**88-385-04 CO-LOCATED FACILITIES**

The standards of this section apply to co-located antennas (attached to existing towers or other structures).

**88-385-04-A.CO-LOCATION ON EXISTING WIRELESS COMMUNICATION FACILITY**

Installation of a wireless antenna and associated equipment on an existing wireless communication facility is a permitted use in all zoning districts.

**88-385-04-B.CO-LOCATION BY ATTACHMENT TO EXISTING STRUCTURE**

This subsection addresses the installation of a tower or antenna on an existing structure, other than a wireless communication facility tower, including but not limited to buildings, light poles, water towers, commercial signs, church steeples, and any other freestanding structures. Such co-located facilities, including associated equipment and accessory structures, are subject to the following standards:

**1. HEIGHT**

- (a) In zoning districts with maximum height limits, co-located facilities may not extend above the highest point of the structure to which it is attached by more than:
  - (1) 10 feet, if the structure is up to 40 feet in height;
  - (2) 15 feet, if the structure is more than 40 feet in height up to 60 feet in height; or
  - (3) 35 feet, if the structure is more than 60 feet in height.
- (b) In zoning district with no maximum height limits, there is no limit on the height of the antenna.

**2. EQUIPMENT BUILDINGS AND CABINETS**

- (a) Equipment buildings and cabinets that house equipment customarily incidental to wireless communication facilities must comply with the requirements of Chapter 25 of the code (See 25-4).
- (b) All equipment buildings and cabinets must be screened or otherwise designed to architecturally blend in with the surrounding area.

(c) Ground mounted equipment buildings and cabinets must comply with applicable setback regulations of the subject zoning district. Landscaping must be provided to screen ground-mounted structures from public rights-of-way and adjacent residential areas.

**88-385-04-C.ANTENNA DIMENSIONS**

Antennas on co-located facilities may not be more than:

1. 4 feet high or wide, if the structure is up to 40 feet high; or
2. 6 feet high or wide, if the structure is more than 40 feet high.

**88-385-04-D.ANTENNA PROJECTION**

The antenna of such a co-located facility may not project more than 3 feet from the side of the structure, nor may any equipment shelter or platform or other supporting electrical or mechanical equipment that is mounted on the structure be located within 5 feet of the outer edge of the structure.

**88-385-04-E.ANTENNA DESIGN**

The antenna and associated equipment of such a co-located facility must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure or building so as to make the antenna and associated equipment as visually unobtrusive as possible.

**88-385-05 FREESTANDING TOWERS**

The standards of this section apply to freestanding towers constructed for the primary purpose of supporting wireless communication equipment.

**88-385-05-A.LOCATION**

**1. TECHNICAL DATA**

An applicant for a wireless communications facility must provide engineering or other appropriate technical data establishing the need for a facility at the requested location.

**2. CO-LOCATION**

An applicant must describe efforts made to co-locate the required equipment on existing wireless communications facilities and on other existing structures. An applicant must describe why co-location is not possible, thus requiring the construction of a new wireless communications facility. All new facilities must be constructed to permit the co-location of no less than two additional wireless communication providers.

**3. PUBLIC SAFETY FACILITIES**

As a condition precedent to obtaining a building permit to construct a freestanding wireless communication tower, the tower owner must agree to permit the co-location of public safety communications facilities owned or operated by the city or the city police department on terms and conditions mutually agreeable to each party.

**4. CONSIDERATION OF PUBLIC PROPERTY**

An applicant must indicate whether public property, particularly property of the city, is appropriate for placement of wireless communications facilities. Efforts to locate the required equipment on public property must be described. If the use of public property is not possible, the applicant must explain why a wireless communications facility cannot be placed on public property.

**5. SEPARATION OF FACILITIES**

**(a) ONE MILE SEPARATION**

Monopoles or other towers constructed as part of a wireless communications facility may not be located closer than within a one mile radius of the center of the base of another monopole or other tower constructed as part of a wireless communications facility. This requirement does not apply to antennas or other equipment located on existing building or to be co-located on existing monopoles or towers.

**(b) EXCEPTION**

A facility may be located within the one-mile radius of another facility if an engineering or other appropriate technical study establishes that there are not suitable sites available that meet the one mile separation requirement. A lack of suitable sites means that there are no existing wireless communications facilities available for co-location, no existing buildings or other structures available for placement of equipment or, for engineering or other appropriate technical reasons, equipment must be located closer than one mile apart to operate the wireless communications systems.

**6. NOT SECOND PRINCIPAL USE**

The constructions of a wireless communications facility will not be considered a second principal use of property.

**88-385-05-B. SETBACKS**

**1. PROPERTY LINES**

**(a) FRONT PROPERTY LINES**

A setback of at least 50 feet must be provided from the front property line, unless a larger setback applies.

**(b) ALL OTHER PROPERTY LINES**

Setback requirements, unless specifically addressed in this subsection, must comply with the requirements applicable to all primary structures located in the subject zoning district.

**2. RESIDENTIAL DISTRICTS**

A wireless communications facility may not be located within 200 feet of any residential structure located within a residential zoning district. If a wireless communications facility is taller than 200 feet, the separation from the center of

the facility to a residential structure located within a residential district must equal at least the height of the facility.

**88-385-05-C. TYPE OF FACILITY**

In zoning districts in which freestanding towers are permitted, such towers must be of a monopole or disguised antenna support structure design, with buildings and equipment no larger than necessary to house and protect the required equipment. Alternative tower designs (i.e., guyed towers and self-support towers) may be approved in zoning districts in which freestanding towers are permitted, but only in accordance with the special use approval procedures of 88-525. Guyed towers may only be approved in industrial and agricultural zoning districts.

**88-385-05-D. SCREENING**

Visual screening must be provided around all equipment buildings and cabinets and ground-level portion of the wireless communication facility. Screening may be accomplished by visual barrier fence or landscaping, or both. Landscaping must provide screening throughout all seasons.

**88-385-05-E. LIGHTING**

Only basic security lighting is permitted. Lighting may not result in glare on the adjacent properties. A lighting ring chart may be provided as part of the plan submitted for approval of any facility. This requirement does not preclude the use of light poles, athletic field light structures or other sources of light from being used to disguise or to support wireless communications facilities. Lighting required by federal authorities including the Federal Communications Commission of the Federal Aviation Administration are recognized as superseding local requirements for lighting when the requirements are inconsistent.

**88-385-05-F. SIGNS**

A wireless communications facility may not have signage for business identification or advertising attached or incorporated into the facility except for a sign no larger than 12 inches by 18 inches that contains the name of the operator, an emergency telephone number and the site name/number. This prohibition does not preclude the use of existing signs or billboards from being used to disguise or to support wireless communications facilities. This prohibition is not intended to supersede any requirement by the Federal Communications Commission or other appropriate agency for identification signs.

**400 SERIES • • DEVELOPMENT STANDARDS**

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## **88-405 SUBDIVISION DESIGN AND IMPROVEMENTS**

### **88-405-01 PURPOSE AND INTENT**

In addition to promoting the general purposes of this zoning and development code, the subdivision design and improvement standards of this article (and the subdivision review and approval procedures of 88-540 through 88-555) are intended to help:

**88-405-01-A.** facilitate the creation of accurate and permanent public records of the separate interests created and conveyed by the subdivision of land, thereby helping to protect private property rights;

**88-405-01-B.** promote the timely and coordinated provision of required multi-modal transportation improvements, utilities and other facilities and services to new land developments;

**88-405-01-C.** provide needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational and other public purposes or the provision of funds in lieu of dedication; and

**88-405-01-D.** ensure that proposed lots are capable of being built upon in accordance with applicable city regulations.

### **88-405-02 COMPLIANCE WITH APPLICABLE REGULATIONS**

All subdivisions and all improvements required or allowed by this zoning and development code are subject to compliance with the following:

**88-405-02-A.** this zoning and development code;

**88-405-02-B.** state statutes;

**88-405-02-C.** building and housing codes;

**88-405-02-D.** the official master plan, major street plan, public utilities plan, master watershed plans and capital improvements program of the city, including all streets, drainage systems and parks shown on the major street plan or official master plan, as adopted;

**88-405-02-E.** rules of the state highways and transportation department, if the subdivision contains or abuts a state highway;

**88-405-02-F.** standards and regulations adopted by all boards, commissions, departments, divisions, agencies and officials of the city adopted pursuant to any law or ordinance;

**88-405-02-G.** the city's *Standards, Specifications and Design Criteria*, which must be adopted by ordinance in accordance with Section 88-590; and

**88-405-02-H.** all other local, state and federal requirements.

**88-405-02-I. Standards, specifications and design criteria.** The City's *standards, specifications and design criteria* consist of the department of public works' *standards, specifications and design criteria* and the department of water services' *standards, specifications and design criteria*, as adopted, supplemented and revised in accordance with the procedures of article 88-590. all subdivision improvements constructed or modified must

comply with *standards, specifications and design criteria*, which are available to the public in the offices of the director of public works and director of water services.

### **88-405-03 IMPROVEMENTS REQUIRED**

**88-405-03-A.** Developers (subdividers) are responsible for the construction and installation of the following improvements in accordance with the standards of this zoning and development code.

1. all streets within the subdivision and improvements to existing streets required for safe and adequate access to the subdivision as may be required by this zoning and development code;
2. street signs;
3. sidewalks and trails;
4. water supply and wastewater systems, other than individual wells and individual sewage disposal systems;
5. surface drainage and storm sewers;
6. stormwater management facilities;
7. erosion and sedimentation control devices;
8. utilities;
9. survey monuments;
10. street lights; and
11. any other on- or off-site improvements required at the time of plat approval.

**88-405-03-B.** Developers are responsible for maintaining required improvements until such time as they are accepted by the city or transferred to a property owner's association.

**88-405-03-C.** If the developer files a final plat for only a portion of the subdivision for which a preliminary plat was approved, the improvements required to be constructed, installed, and maintained in accordance with that final plat must be those improvements that the development review committee deems necessary to serve the lots shown on the proposed final plat.

### **88-405-04 REQUIRED DEDICATIONS AND RESERVATIONS**

In subdividing land or re-subdividing an existing plat, developers must dedicate rights-of-way for public streets and conform to adopted plans in providing suitable sites parks, playgrounds or other public recreational areas or open spaces in accordance with the standards of this zoning and development code. All areas to be dedicated or reserved must be indicated on the preliminary plat.

### **88-405-05 LOTS**

**88-405-05-A.** The size, shape and orientation of lots must comply with applicable zoning district standards and be appropriate for the location, topography and physical features present and for the type of development and use contemplated.

**88-405-05-B.** All lots must have an approved form of access to a public street

**88-405-05-C.** Minimum lot dimensions, building setback lines and lot areas must conform to applicable zoning district requirements. Lots that are not served by a public sewer must have a minimum area of at least 3 acres.

**88-405-05-D.** Lot lines should follow municipal boundary lines rather than cross them.

**88-405-05-E.** Double-frontage and reverse-frontage lots may be approved at the time of preliminary plat approval when necessary to provide separation of residential development from through traffic or overcome specific disadvantages of terrain and orientation.

**88-405-05-F.** Residential lots may not be platted so that rear or side lot lines directly abut major street rights-of-way. When residential lots are platted with rear or side lot lines “facing” major streets a minimum 30-foot “no build” buffer must be established between the major street right-of-way and the abutting residential lot. The entire 30-foot “no-build” buffer must be platted as a private open space tract to be maintained by a property owners association. No buildings or structures (including fences and walls) may be located in required no-build buffers. Private open space tracts may be used for stormwater BMPs.

**88-405-05-G.** Depth and width of lots reserved or laid out for commercial or industrial use must be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

## **88-405-06 BLOCKS**

**88-405-06-A.** The length, width and shape of blocks must be suited for the planned use of the land, zoning requirements, and need for convenient access, control and safety of street traffic and the limitations and opportunities relating to the terrain and natural environment.

**88-405-06-B.** Blocks may not exceed 600 feet in length in residential subdivisions with a gross density of 4 or more dwelling units per acre. In lower density residential subdivisions blocks may not exceed 1,200 feet in length. The city planning and development director is authorized to allow longer block lengths if topography, sensitive natural resources or other physical constraints make shorter block lengths undesirable or impractical. In such cases, the city planning and development director is authorized to require the provision of emergency vehicle access routes, pedestrian connections (easements), crosswalks and other pedestrian access features that provide safe and adequate vehicle access and pedestrian connections to schools, playgrounds, shopping areas, transportation and other community facilities in the area. Emergency vehicle access routes and pedestrian access easements must have a minimum width of 12 feet.

## **88-405-07 SIDEWALKS**

Sidewalks must be provided in accordance with the department of public works’ *Standards, Specifications and Design Criteria*. Decision making bodies are authorized to allow trails to be substituted for sidewalks.

## **88-405-08 TRAILS**

Refer to *Citywide Trails Plan* for trail requirements.

## **88-405-09 STORMWATER MANAGEMENT**

Developers are responsible for designing and installing drainage and stormwater management facilities in accordance with all applicable city requirements.

**88-405-10 STREETS****88-405-10-A. TRAFFIC MOVEMENT AND PEDESTRIAN CIRCULATION PRINCIPLES**

The street and pedestrian circulation layout for all new subdivisions must conform to the arrangement, width and location indicated on the major street plan, comprehensive plan, or approved area plan. In areas for which such plans have not been completed, street and pedestrian circulation systems must be laid out and designed with due regard for topography and drainage and to:

1. create an integrated system of lots, streets, trails, and infrastructure that provides for efficient movement of pedestrians, bicycles and automobiles within the subdivision and to and from adjacent development;
2. provide for the efficient movement of through traffic by providing an interconnected hierarchy of streets in order to avoid isolation of residential areas and over-reliance on major roads;
3. provide safe and attractive pedestrian routes to nearby commercial centers, as well as nearby public/civic, employment and recreation uses; and
4. be uncomplicated, so that emergency services, public services, and visitors can find their way to their intended destinations.

**88-405-10-B. CONNECTIONS TO ABUTTING PROPERTY**

1. A network of interconnected streets is intended to:
  - (a) provide safe, convenient, and efficient means of access to lots;
  - (b) promote orderly development patterns;
  - (c) facilitate the effective and efficient provision of emergency and public services; and
  - (d) avoid degradation of traffic carrying capacity on the major street network.
2. Streets in new subdivisions must connect with dedicated streets in adjacent subdivisions and provide for future extension of streets into adjacent areas that are likely to be developed in the future. Waivers to street connection requirements may be approved in accordance with 88-405-25 if topography, sensitive natural resources or other physical constraints make such connections undesirable or impractical.
3. Streets proposed for future extension ("stub streets") must be terminated with temporary turnarounds when the stub street extends 150 feet or more from the nearest intersecting street right-of-way or when more than one lot will have access solely from the stub street. Stub streets are subject to the maximum cul-de-sac length standard of 88-405-10-C.
4. Temporary turnarounds must be constructed in accordance with the city's *Standards, Specifications and Design Criteria*. Unless otherwise expressly approved they must be located on (off-site) adjacent property. An off-site temporary roadway easement is required and evidence of such a recorded easement must be submitted at the time of application for permit. If the developer

controls the off-site property, the temporary roadway easement may be recorded simultaneously with the final plat for the subject property.

5. If providing a temporary turnaround on (off-site) adjacent property is not practical or the developer is not able to obtain the required off-site temporary easement, the city planning and development director may approve one of the following options:
  - (a) elimination of the off-site temporary turnaround in lieu of an on-site permanent concentric bubble right-of-way curbed turn-around centered on the extending street centerline prior to the termination point of the street extension (minimum lot sizes, dimensions and setbacks must be maintained for lots fronting on the turn-around right-of-way); or
  - (b) provision of an on-site, non-concentric bubble temporary turn-around on one or more lots and provision of a temporary easement encumbrance over the entire lot or lots affected by the turn-around. If a portion of a lot is encumbered by the turn-around, the entire lot must be covered by the easement without exception. The easement will be retained until the street is extended in a subsequent phase or plat, the temporary turn-around is removed, all permanent street improvements are completed and accepted across the lot or lots, thus eliminating the need for the temporary turn-around and easement.
6. The developer must post a sign at the terminus of all stub streets indicating that the stub street is intended to be opened to through traffic when the adjacent property is developed. The sign must state "FUTURE THROUGH STREET. TO BE CONNECTED WHEN ABUTTING PROPERTY DEVELOPS." The city may provide specifications for required signs.

#### **88-405-10-C.CUL-DE-SACS**

1. Cul-de-sacs streets may not exceed 600 feet in length unless otherwise expressly approved by the city planning and development director or city plan commission. In no event may a cul-de-sac street be approved that exceeds 1,320 feet in length or that serves more than 20 dwelling units. The length of a cul-de-sac street is measured from the center point of its turnaround, along the centerline of its right-of-way to the nearest edge of the right-of-way of the nearest intersecting street.
2. If a cul-de-sac is longer than 600 feet, the city planning and development director is authorized to require the provision of a pedestrian access easement from the terminus of the cul-de-sac to provide safe and convenient pedestrian access to adjacent areas. Such pedestrian access easements must have a minimum width of 12 feet.
3. Turnarounds at the end of cul-de-sac streets must be constructed in accordance with the city's *Standards, Specifications and Design Criteria*.

#### **88-405-10-D.INTERSECTIONS**

1. Streets must intersect each other at right angles unless otherwise dictated by pedestrian and vehicle safety, topography or other factors of environmentally sensitive site design.

2. Intersection radii must comply with the city's *Standards, Specifications and Design Criteria*, provided that the city planning and development director may require a greater or reduced radius when anticipated traffic or roadway and intersection improvements warrant.

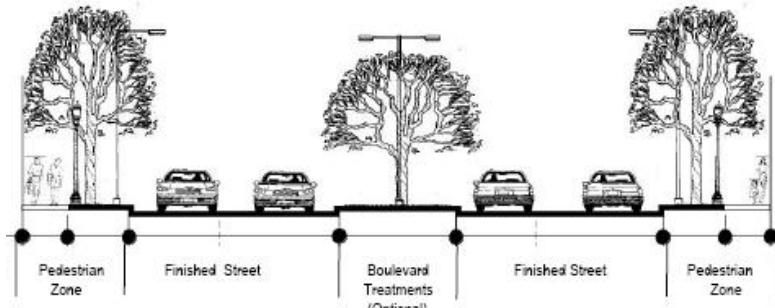
#### **88-405-10-E. RIGHT-OF-WAY WIDTH**

Proposed streets must have a right-of-way width that will safely accommodate the transportation (vehicular, pedestrian and bicycle) improvements and street cross-sections needed to provide appropriate, safe and adequate access to the subject development, in accordance with the city's *Standards, Specifications and Design Criteria*.

#### **88-405-10-F. CROSS-SECTION DESIGN**

##### **1. DESCRIPTION**

Street cross-sections are comprised of the following 3 major components: (1) finished street; (2) pedestrian zone; and (3) optional boulevard treatment. Varying the design of these components allows for implementation of a context-sensitive street network and enables transportation designs that better relate to differences in environmental conditions and land use/development patterns.



##### **(a) FINISHED STREET**

The finished street component of a street cross-section is the portion of the right-of-way made up the paved street from curb to curb, or edge to edge where curb and gutter is not provided. The finished street includes the following elements:

- (1) vehicle travel lanes;
- (2) on-street parking, where applicable;
- (3) turn lanes, where necessary;
- (4) on-street bicycle facilities, where applicable; and
- (5) finished street edge (e.g., curb/gutter, swale/ditch, shoulder)

##### **(b) PEDESTRIAN ZONE**

The pedestrian zone component of a street cross-section is the portion of the right-of-way that primarily accommodates pedestrian movement and buffers pedestrians and adjacent land uses from moving vehicles on the finished street. The pedestrian zone includes the following elements:

- (1) pedestrian facility (e.g., sidewalk or trail), providing dedicated areas for pedestrian travel along streets;
- (2) amenity/buffer area (e.g., tree lawn, vegetated natural buffer, expanded sidewalk), providing separation of pedestrians from moving vehicle lanes and providing a landscape amenity or occasionally street furniture along the street; and
- (3) off-street bicycle facilities (optional), providing dedicated or shared off-street bicycle facilities along bike routes in areas where on-street facilities would be inappropriate or impractical.

**(c) BOULEVARD TREATMENT**

The boulevard treatment is an optional component of a street cross-section that includes a landscaped median as the focal point of the street, and may include additional design elements such as frontage access lanes (i.e., "slip roads"), buffer strips and parking.

**2. REQUIRED IMPROVEMENTS**

Street cross-sections must be designed and constructed in accordance with adopted public works standards or plans found to be in general compliance with this ordinance during the subdivision approval process.

**88-405-10-G. GRADES**

Street grades must provide safe and convenient traffic conditions while avoiding excessive grading and unnecessary removal of ground cover and tree growth. Street grades must comply with the city's *Standards, Specifications and Design Criteria*.

**88-405-10-H. VERTICAL CURVATURE**

All changes in street grade must be connected by vertical curves and be designed for safe stopping sight distances and safe sight distance at the entrance to subdivisions, in accordance with the city's *Standards, Specifications and Design Criteria*. The development review committee is authorized to require that applicants submit a sight distance analysis at the time of preliminary subdivision plat review.

**88-405-10-I. HORIZONTAL CURVATURE**

The required centerline radius of horizontal curves must be based on engineering considerations of topography, length of street, number of curves and other factors, as determined by the director of public works. Horizontal curves on arterial streets must be designed in accordance with the city's *Standards, Specifications and Design Criteria*.

**88-405-10-J. ALLEYS**

Alleys and service lanes are permitted and encouraged within new subdivisions. Alleys, whether public or private, must comply with the department of public works' *Standards, Specifications and Design Criteria* or plans found to be in general compliance with this ordinance during the subdivision approval process. Dead-end alleys are prohibited.

**88-405-10-K. HALF STREETS**

Where an existing dedicated or platted half street is adjacent to the tract being subdivided, the other half of the street right-of-way must be dedicated by the subdivider in conformance with the requirements of the major street plan. Half street dedications for minor or access

streets are not permitted unless there is satisfactory agreement with the city that both adjacent developers agree to dedicate and construct one-half of the street.

#### **88-405-10-L. STREET NAMES**

Street names must be assigned by the street naming committee at the time of preliminary plat approval. The developer must submit a street name sign plan with the preliminary plat submittal. The street name sign plan must be drawn at a readable scale that shows the proposed street layout with proposed names, perimeter streets and street names, lot lines and proposed street name sign locations, with a note stating the names to be put on each sign. The sign locations, size and message must comply with department of public works' "Specifications for Fabricating and Installing Street Name Signs."

#### **88-405-10-M. BOULEVARD AND PARKWAY DESIGN STANDARDS**

Construction of any street that has been designated as a boulevard or parkway on the major street plan, or a park under the jurisdiction of the board of parks and recreation commissioners must conform to the design standards that have been adopted and approved by the city council as part of the *Boulevard and Parkway Standards*.

#### **88-405-10-N. SUBORDINATION AGREEMENTS**

##### **1. PURPOSE**

The city requires that street rights-of-way dedicated to the public be and remain available for access to individual properties and to other streets and roadways. In order to ensure that the rights of the public to the use of street right-of-way will not be infringed upon, this section requires that any utility or other easement be subordinate to the rights of the public in the street right-of-way, except as otherwise expressly stated.

##### **2. CONTENTS OF SUBORDINATION AGREEMENT**

(a) In the case of a dedication of right-of-way that involves dedication over a pre-existing utility easement before the dedication of the right-of-way to the city, a subordination agreement must include an agreement by the easement holder to subordinate its easement to the city's public right-of-way subject to the rights of the easement holder to be reimbursed if future improvements to the right-of-way require the relocation or adjustment of the utility's facilities located within the easement or cause conditions that constructively require the relocation or adjustment of the utility's facilities located within the easement. Agreements that include the following provisions are acceptable to the city:

- (1) The city agrees that utility's obligation to relocate is dependent upon the city providing the utility with an easement for the relocation; and
- (2) The city agrees that if future improvements to the right-of-way require the relocation or modification or other adjustment of the utility's facilities located in the easement, the city will not require the utility to pay the cost of relocating, modifying or adjusting its facilities. In those cases, the agreement must also provide that if the utility's future improvement, reconstruction or maintenance of its facilities located in the easement damages the right-of-way, the utility will repair or replace the existing right-of-way in accordance with city standards in effect on the date of

damage. Notwithstanding anything contained herein to the contrary, should the improvements set forth in the construction plan or plans for improvements required by the final plat within the new right-of-way require the relocation or other adjustment of the utility's facilities located in the easement or cause conditions that constructively require the relocation or adjustment of the utility's facilities located within the easement, the developer will be responsible for all costs associated with relocating, modifying or adjusting in any way the utility's facilities, including easement acquisition costs, associated with the improvements.

(b) In the case of a dedication of right-of-way to the city that involves a utility easement that was recorded after the development plan or preliminary plat, whichever occurs earlier, was submitted for approval, a subordination agreement must include the agreement by the easement holder to subordinate its easement to the city's public right-of-way without a requirement for the easement holder to be reimbursed if it is required to relocate its existing facilities located within the easement. The agreement must also provide that if the utility's future improvement, reconstruction or maintenance of its facilities located in the easement damages the right-of-way, the utility will repair or replace the existing right-of-way in accordance with city standards in effect on the date of damage. Notwithstanding anything contained herein to the contrary, this subsection will not apply to situations where the developer granted the utility easement before June 1, 2010 or where the utility easement was provided to the utility company under condemnation or the threat of condemnation; in those situations, the subordination agreement as required in subsection 2(a) will be acceptable.

### 3. EXCEPTION REQUESTS

In the case of special circumstances where a developer is unable to obtain the subordination from the easement holder or is unable to obtain the form of the subordination agreement as required in subsection 2, a developer may request at the time of final plat approval by the city council an exception to the requirement for the subordination of the easement or to the form of the required subordination agreement as delineated above in subsection 2. This request may be approved by the city council in consideration of all of the following information:

- (a) the utility or easement holder consents to the dedication of the right-of-way over its easement;
- (b) the date the utility obtained the easement and a copy of the easement;
- (c) the name of the entity that granted the easement to the utility;
- (d) a description of the facilities located in the easement; and
- (e) an explanation of the steps taken by the applicant to minimize the crossings of the streets with the utility easements;
- (f) the efforts made by the developer to obtain the subordination from the easement holder or to obtain the subordination agreement in the form delineated in subsection 2 from the easement holder; and

(g) the city council may require the developer to submit additional information to support its request, including an estimate from the utility of how much it would cost to relocate the facilities located in the easement and an explanation of the likelihood that future improvements to the right-of-way will require a relocation or adjust to the utilities' facilities.

#### 4. GRANT OF EXCEPTION

In reviewing the request for an exception to the requirement for subordination of the easement or for the use of a subordination agreement in a form other than as provided in subsection 2, the city council may consider all of the following:

- (a) that there are special circumstances or conditions affecting the property that were not caused by the developer;
- (b) that approval of the plat without the subordination or without the form required by subsection 2 is necessary for reasonable and acceptable development of the property in question, taking into account whether there is another solution, feasible for the developer to pursue, that would induce the holder of the easement to subordinate its easement to the city's new right-of-way in conformance with subsection 2; and
- (c) that approval of the exception to the requirement for a subordination or for a form that conforms to the requirements of subsection 2 will not be detrimental to the public welfare, taking into account whether the potential financial burden to the city is outweighed by the benefit of the new development.

### 88-405-11 EASEMENTS AND UTILITIES

**88-405-11-A.** Easements must be provided by the developer when authorized decision-making bodies determine that such easements are necessary or desirable to accommodate utilities, drainage facilities (surface or subsurface), best management practices, pedestrian access, emergency vehicle access or other required improvements. The intended use, location and dimensions of any easements that are provided must be shown on the preliminary plat.

**88-405-11-B.** Utility facilities that serve multiple properties and that are located outside of the public right-of-way must be located in utility easements with a minimum width of 15 feet. Utility easements must be shown on the preliminary plat. See 88-425-08-B for additional utility cabinet location and screening requirements.

### 88-405-12 TRACT ACCESS

Unobstructed vehicle access-ways must be provided to open space areas and other common areas within subdivisions. Required tract access-ways must:

**88-405-12-A.** provide vehicle and pedestrian access from an approved street to the open space or common area feature;

**88-405-12-B.** have a minimum width of 20 feet with grades of no more than 15%;

**88-405-12-C.** be unobstructed by any fence, wall or locked gate;

**88-405-12-D.** have an all-weather surface or pervious paving adequate to accommodate anticipated maintenance and emergency access needs for the type of use in the open space or common area tract.

#### **88-405-13 TRACTS CONTAINING WATER BODIES OR WATER COURSES**

If a tract being subdivided contains a water body or portion of a water body, lot lines must be drawn to distribute the entire ownership of the water body among abutting lot owners. The city plan commission may approve an alternative plan whereby the ownership of, and responsibility for, public safety and safe maintenance of the water body is so placed that will not become a city responsibility. No more than 25% of the minimum area of a lot required under the zoning ordinance may be satisfied by submerged land. If a watercourse separates the buildable area of a lot from the street by which it has access, provisions must be made for installation of a culvert or other structure that complies with adopted standards.

#### **88-405-14 DAMS**

Where dams are proposed in any subdivision, they must be designed by registered professional engineers. A preliminary engineering report, including soil investigations, and design performance levels, must be submitted for review with the preliminary plan. The preliminary engineering report will be revised for general compliance with adopted standards. A final engineering report must be provided before any permits are issued. The final engineering report must provide detailed hydrological and hydraulic performance results. The developer's registered professional engineer must certify that the dam was constructed in accordance with the submitted plans and specifications. This certification must be provided before issuance of certificates of occupancy (temporary or permanent) and before the release of applicable financial guarantees.

#### **88-405-15 PUBLIC USES AND SERVICE AREAS**

In the design of the plat, due consideration must be given to the dedication or reservation of suitable sites of adequate area for future schools, parks, playgrounds, regional stormwater management facilities, drainageways and other public purposes as designated in the comprehensive plan or component neighborhood unit development plan. In the location of such sites, consideration must be given to the preservation of scenic and historic sites, stands of fine trees, marshes, lakes and ponds, watersheds and ravines.

#### **88-405-16 SUITABILITY OF LAND**

Land subject to flooding, improper drainage or erosion, or extreme topography, or which, for other reasons, is unsuitable for development, may not be platted for any use that will constitute a danger to health or safety or property destruction.

#### **88-405-17 PARKLAND DEDICATION**

##### **88-405-17-A. CALCULATION OF LAND DEDICATION REQUIREMENTS**

Parkland dedication requirements are calculated in 4 steps, as follows:

1. First, multiply the number of detached house dwelling units to be included in the subdivision times 3.7 people per dwelling unit; then multiply the resulting number times 0.006 of an acre per person.

2. Second, multiply the number of dwelling units in two-unit houses to be included in the subdivision times 3 people per dwelling unit; then multiply the resulting number times 0.006 of an acre per person.
3. Third, multiply the number of dwelling units in multi-unit buildings to be included in the subdivision times 2 people per multi-family dwelling unit; then multiply the resulting number times 0.006 of an acre per person.
4. Finally, add the results of the preceding detached house, two-unit house and multi-unit building land dedication calculations. This sum represents the subdivision's total parkland dedication requirement, which may be satisfied by the actual dedication of land or through the payment of cash in lieu of dedication, in accordance with the provisions of this section.

**88-405-17-B. LAND DEDICATION GENERALLY**

1. Subdivision plats and condominium plats must show dedication of land for park uses at locations designated in the comprehensive plan, or the official parks plan adopted by the board of parks and recreation commissioners, or as determined by the subdivider and the staff of the city planning and development and parks and recreation departments.
2. When the required parkland dedication is less than 4 acres, the city plan commission may require the open space to be located at a suitable place on the periphery of the subdivision, so a more usable tract will result when additional open space is obtained when adjacent land is subdivided.
3. In all cases, the developer must dedicate such approved parkland to the city for park purposes as a condition of final subdivision approval.
4. All land to be dedicated to the city for park purposes must have the prior approval of the board of parks and recreation commissioners, and must be shown and marked on the plat as "dedicated to Kansas City, Missouri, for park and recreation purposes." The plat must be so endorsed by the president of the board of parks and recreation commissioners.
5. The board of parks and recreation commissioners must affix its approval to the plat within 3 weeks of receipt of the certified legal description of the property from the city planning and development director.
6. Notwithstanding anything else contained in this section, if the subdivider and the staff of the city planning and development and parks and recreation departments are unable to agree upon the location of the land to be dedicated as required under this section, then as a condition of final subdivision approval the subdivider must pay cash in lieu of land dedication, as required in 88-405-17-C.
7. Also, notwithstanding anything else contained in this section, if the required parkland dedication is less than 2 acres, then the city may elect to require the developer to pay cash in lieu of land dedication, as required in 88-405-17-C. This requirement may be imposed by the city at any time before approval of the preliminary plat by the development review committee or the city plan commission. The requirement, if imposed, will be a condition of final subdivision approval.

**88-405-17-C.CASH IN LIEU OF LAND DEDICATION**

1. Notwithstanding anything contained in 88-405-17-B, the developer may elect, at any time before approval of the preliminary plat by the development review committee or the city plan commission, to pay cash in lieu of dedicating land.
2. When the developer elects to pay cash in lieu of dedicating land, the developer must, before recording the subdivision plat, deposit with the city treasurer a cash payment to the parks and recreation acquisition or development trust fund equal to the required parkland dedication (calculation pursuant to 88-405-17-A) multiplied by the current year's price for the calendar year in which the preliminary plat is approved by the development review committee or the city plan commission, less a credit based on the ratio that any land actually dedicated for park purposes bears to the required parkland dedication. The cash payment must be without recourse or the right of recovery. For purposes of administering this provision, "current year's price" means the average cost per acre actually paid by the city for all purchases of tracts of parkland of 49 acres or less, whether through negotiation or condemnation, but excluding all acquisitions wholly or partially obtained through gift, during the 5 calendar years immediately preceding the subject calendar year.
3. Cash-in-lieu funds paid to the city before May 1, 2003, must be used for the acquisition, development or improvement of a public park, generally within one mile of the periphery of the subdivision for which they were paid.
4. Cash-in-lieu funds and the accrued interest on the funds, paid to the city on or after May 1, 2003, must be used for the acquisition, development or improvement of a public park, generally within 3 miles of the periphery of the subdivision for which they were paid. Funds must be used for such purposes within 15 years of the date the payment is received by the city, provided that any such funds that are used for parks located more than one mile from the periphery of the subdivision for which they were paid will not be used for a neighborhood park, as defined by parks and recreation department standards.

**88-405-17-D.REPLATS**

In calculating land dedication and cash in lieu requirements, an applicant proposing to replat land or convert existing residential units to condominiums must be given credit for any previous land dedications or cash payments for the subject project.

**88-405-17-E. PRIVATE DEVELOPMENT AND OPERATION OF RECREATIONAL OPEN SPACE**

The applicant may elect to comply with the land dedication/fee-in-lieu requirements of this section by providing an area that meets the minimum standards of 88-405-17-B, provided that such area must be developed and maintained by the subdivider or by the lot owners in the subdivision as private property under a legal arrangement approved by the city attorney as adequate to ensure its continued operation and maintenance. The city may require that such private open space area be improved as useable recreation area, such as trails, ball fields, playgrounds or other active recreation amenities.

**88-405-17-F. QUALITY OF DEDICATED PARK SITES**

Lands to be dedicated in accordance with the parkland dedication requirements of this section (88-405-17) are subject to the following standards.

1. Land proposed to be dedicated for park and recreation use must be suitable for such use and receive the approval of the director of parks and recreation and the city plan commission.
2. If the minimum parkland dedication requirement exceeds 10 acres, the parks and recreation department may require that the dedication comprise more than one parcel within the subdivision, subject to the approval of the city plan commission.
3. The dedicated parkland must be a cohesive whole, but may be of irregular outline or shape.
4. The developer may, with the concurrence of the parks and recreation department, make improvements or provide recreational facilities. The developer must improve the land to be dedicated as follows:
  - (a) If the required parkland dedication is 4 acres or less, the developer must provide within the park area, as approved by the city plan commission, a play area of 20,000 square feet with not more than a 4% gradient or which could reasonably be graded to such.
  - (b) If the required parkland dedication is 9 acres or more, provide a play and game area within the park area of not less than 85,000 square feet with a maximum gradient of 4% or which could reasonably be graded to such.
  - (c) If the required parkland dedication is between 4 acres and 9 acres, provide a proportionate share of game area.
  - (d) Any land within the park area disturbed by construction activity must have topsoil restored and the soil stabilized by appropriate vegetative cover.
5. Each park open space must have frontage on a public street that the city plan commission deems necessary to provide acceptable access to the open space from a public street, taking into account the need for adequate frontage on a public street and the amount of frontage reasonably required by the circumstances of the particular open space. This frontage may serve as a corridor from the public street to the main body of the park area that the city plan commission deems necessary to provide acceptable access to the open space from the public street. This corridor must have a gradient adequate for pedestrian or vehicle use.

#### **88-405-17-G. ADDITIONAL RECREATIONAL RESERVATIONS**

The provisions of this section are minimum standards. Nothing in this section is to be construed as prohibiting a developer from dedicating or reserving other land for recreation purposes in addition to the requirements of this section.

#### **88-405-17-H. TRAILS**

Trails may be counted toward satisfying the parkland dedication requirements of 88-405-17. Unless otherwise expressly approved at the time of subdivision approval, the maximum credit allowed is 50 feet times the length of the dedicated trail segment. Decision-making bodies are authorized to allow greater land dedication credit if the trail provides immediate access to a useable open space or recreation amenity or it otherwise provides greater amenity value than a linear trail corridor.

**88-405-18 OTHER PUBLIC USES**

**88-405-18-A.PLAT TO PROVIDE FOR PUBLIC USES; DETERMINATION OF NECESSITY**

1. The developer must suitably incorporate into the preliminary plat other public uses as indicated in the official master plan. Other public uses include such uses as a school, recreation uses in excess of the requirements in 88-405-17, or any other similar public uses as indicated by the developer or as required by any provision of this zoning and development code.
2. The determination of necessity for acquisition of such other public uses will be by the city plan commission as part of the development phase, in accordance with 88-405-18-B. If the determination is made to acquire the site by the city or other public agency, the site must be suitably incorporated by the developer into the preliminary plat and final plat.

**88-405-18-B.REFERRAL OF PLAT TO PUBLIC BODY**

The secretary of the city plan commission must refer the preliminary plat to the public body concerned with the proposed acquisition for its consideration and report. Alternate areas for such acquisition may be proposed. The secretary of the city plan commission must invite the public body or agency to respond at the development review committee meeting when the proposal will be discussed. The agency's recommendation, if affirmative, must include a map showing the boundaries and area of the parcel to be acquired and an estimate of the time required to complete the acquisition.

**88-405-18-C.NOTICE TO PROPERTY OWNER OF ACQUISITION BY PUBLIC BODY**

Upon receipt of an affirmative report pursuant to 88-405-18-B, the secretary of the city plan commission must notify the subdivider and require designation of the area proposed to be acquired by the city or other public body on the final plat.

**88-405-18-D.DURATION OF LAND RESERVATION BY PUBLIC BODY**

The acquisition of the land reserved by the city or other public body on the final plat must be consummated within 12 months of written notification from the owner of the owner's intent to develop the land. Such letter of intent must be accompanied by a sketch plat of the proposed development and a tentative schedule of construction. Failure on the part of the city or other public agency to consummate acquisition within the prescribed 12 months will result in the removal of the reserved designation from the property involved and the freeing of the property for development in accordance with this zoning and development code. The developer must replat this parcel in accordance with the provisions of this zoning and development code.

**88-405-19 SURVEY MONUMENTS**

**88-405-19-A.PERMANENT REFERENCE POINTS**

The developer's registered land surveyor must install permanent reference points on all perimeter corners of the property and must tie all property corners to the city grid system.

**88-405-19-B. STANDARDS FOR SURVEY**

1. The city must furnish a coordinate point within one-half mile of the subdivision, through which the surveyor must traverse with the perimeter survey work. The traverse from the point furnished by the city, the boundary of the subdivision, and closure to the beginning coordinate point must be a minimum of third order, class I, as defined in the current Classification Standards of Accuracy and Specifications for Geodetic Control Surveys, 10 CSR 30-4, Missouri Code of State Regulations.
2. The subdivision survey must conform to all city requirements the procedures established by the director of public works and must be based on the current Minimum Standards for Property Boundary Surveys, 10 CSR 30-2, Missouri Code of State Regulations.

**88-405-20 NONRESIDENTIAL SUBDIVISIONS**

**88-405-20-A. GENERALLY**

1. If a proposed subdivision includes land that is zoned for commercial, industrial or other nonresidential purposes, the layout of the subdivision with respect to such land must make provision as the city plan commission may require pursuant to this zoning and development code.
2. Nonresidential subdivisions are subject to all the requirements of site plan approval set forth in this zoning and development code. A nonresidential subdivision must also conform to the proposed land use and standards established in the master plan and major street plan.

**88-405-20-B. STANDARDS**

In addition to complying with the subdivision design and improvement standards of this zoning and development code, developers of nonresidential subdivisions must demonstrate to the satisfaction of the city plan commission that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles must be observed:

1. Proposed industrial parcels must be suitable in area and dimensions to the types of industrial development anticipated.
2. Street rights-of-way and pavement must be adequate to accommodate the type and volume of traffic to be generated.
3. Special requirements may be imposed by the city with respect to street, curb, gutter and sidewalk design and construction.
4. Special requirements may be imposed by the city with respect to the installation of public utilities, including water, sewer and stormwater drainage.
5. Every effort must be made to protect adjacent residential areas from potential nuisance from proposed nonresidential subdivisions, including the provision of extra depth in parcels backing upon existing or potential residential development.
6. Streets carrying nonresidential traffic, especially truck traffic, should not normally be extended to the boundaries of abutting residential areas.

**88-405-21 INSTALLATION OR FINANCIAL GUARANTEE OF REQUIRED IMPROVEMENTS**

**88-405-21-A. PREREQUISITE TO RELEASE OF FINAL SUBDIVISION PLAT FOR RECORDING**

1. After construction plans have been reviewed for compliance with applicable requirements but before a final subdivision plat is released by the city for recording, the developer must install or guarantee the completion of required improvements and guarantee maintenance of such improvements.
2. If the developer chooses to complete required improvements prior to release of a final plat for recording, the developer must obtain construction permits and post required maintenance guarantees for the installed improvements
3. If the developer chooses not to install required improvements before release of the final subdivision plat for recording, the developer must obtain construction permits and post a financial guarantee of performance and maintenance in accordance with 88-405-21-B.

**88-405-21-B. FINANCIAL GUARANTEES**

Financial guarantees for temporarily deferred improvements must be provided in the form of bonds, escrow or letters of credit in accordance with this subsection.

**1. BONDS**

- (a) The developer may post a performance bond for all or a portion of the required improvements, in an amount estimated by the city planning and development director to be sufficient to cover the entire cost of construction, engineering, installation and dedication of the improvements to be covered by the bond. Bonds for partial improvements may be accepted only if the balance of the public improvements are completed before release of the final plat for recording.
- (b) Performance bonds must comply with the requirements of RSMo 89.410 and are subject to approval by the director of finance.
- (c) Within 2 years of the date that the performance bonds are posted, the developer must obtain all required construction permits and post performance and maintenance bonds for completion of the required improvements. The city planning and development director may, upon proof of hardship, extend the 2-year life of the bond for a maximum of one additional year. Further extensions may be granted by the city council. In the event of any time extension, the city planning and development director may require an increase in the bond amount if the director determines that the original bond amount will not be sufficient to cover the costs of construction, engineering, installation and dedication of the improvements to be covered by the bond.
- (d) The city is authorized to delay release of final plats for subsequent phases of the subdivision until required public improvements are installed in accordance with the construction permit and bond provisions.

## 2. ESCROW OR LETTER OF CREDIT

(a) The developer may enter into an escrow or a letter of credit agreement with the city. This form of financial guarantee requires that the applicant place in escrow or submit a letter of credit in an amount estimated by the city planning and development director to be sufficient to cover the entire cost of construction, engineering, installation and dedication of the improvements to be covered by the financial guarantee. Unless a completion date is properly extended by the city planning and development director for the escrow or letter of credit agreement, public improvements must be completed in accordance with the following timetable:

<b>Improvement</b>	<b>Required Completion (years from plat recording)</b>
Wastewater (sewer)	2
Stormwater management	2
Streets	2
Sidewalks	2
All other	2

(b) The escrow or letter of credit agreement must be submitted before the final plat is forwarded to the city council.

(c) The city is authorized to delay release of final plats for subsequent phases of the subdivision until required public improvements are installed.

### 88-405-22 DEFERRAL OF REQUIRED SUBDIVISION IMPROVEMENTS

**88-405-22-A.** Requests to defer installation of required subdivision improvements and post financial guarantees must be submitted with the preliminary plat. Deferral requests will be considered as part of the preliminary plat review process.

**88-405-22-B.** The city is authorized to delay release of final plats for subsequent phases of the subdivision until required public improvements are installed.

**88-405-22-C.** Requests to defer installation of required subdivision improvements may be conditioned upon the developer's payment of the estimated proportionate share of the cost of the future improvements to the city prior to acceptance of the final subdivision plat by the city council and issuance of certificates of occupancy. Estimated costs must be based on estimates equivalent to city cost to construct the improvements.

**88-405-22-D.** Payments may be in cash or another form of acceptable security approved during the preliminary plat review process.

**88-405-22-E.** For purposes of estimating street improvement contributions on collector or local street classifications, the starting rate (based on average city improvement costs) is \$221.20 per linear foot, with adjustments made to increase or decrease the rate when existing constraints or conditions dictate a higher or lesser estimated cost.

**88-405-22-F.** The city manager has the authority to make adjustments to the starting rate on an annual basis to reflect an increase equal to an increase in the consumer price index (all

items/all urban consumers/Kansas City, Missouri-Kansas) published by the United States Department of Labor, Bureau of Labor Statistics, provided that the increase is reflective of the city costs for such improvement.

**88-405-22-G.** If the average costs fall below the rate being charged, the rate must be reduced so that it is equal to or less than the average city costs for such improvements. The adjustments must be made annually by the city manager in conjunction with the adoption of the annual budget of the city by filing a notice with the city clerk.

### **88-405-23 MAINTENANCE OF IMPROVEMENTS**

The developer must maintain all subdivision improvements until final acceptance of such improvements by the city.

### **88-405-24 PROPERTY OWNERS ASSOCIATIONS**

#### **88-405-24-A. ESTABLISHMENT**

If a property owners association is assigned responsibility for the maintenance and control of streets, open space, recreational facilities, or any other common areas and facilities within a subdivision, that property owners association must have legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from residents or property owners to cover their proportionate share of the costs associated with the maintenance of the common areas and facilities.

#### **88-405-24-B. BACK-UP FUNDING MECHANISMS**

The city council is expressly authorized to require the establishment of a neighborhood improvement districts (NID) to provide funding in case the property owners association or individual property owners fail to properly maintain areas or facilities that are owned in common by a property owner association. A neighborhood improvement district may be dormant at the time of final plat approval if acceptable property owners' association covenants and restrictions are recorded with the final plat. The city may activate the neighborhood improvement district if the property owners association does not properly maintain the common areas or facilities or otherwise fails to adequately carry out its duties.

#### **88-405-24-C. DOCUMENTATION**

1. Documents providing for the establishment of a property owners association must be submitted to the city planning and development director before release of a final plat for recording.
2. The city's review is limited to ensuring that the property owners association has clear legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from residents and property owners to cover their proportionate share of the costs associated with the maintenance of the common areas and facilities.

## **88-405-25 WAIVERS AND MODIFICATIONS OF SUBDIVISION DESIGN/ IMPROVEMENT STANDARDS**

### **88-405-25-A. GENERAL AUTHORITY**

Whenever it is found that the land included in a subdivision division plat presented for approval is of such size or shape or is subject to or is affected by such topographical conditions, or is to be devoted to such uses, that full compliance with the subdivision design and improvement standards of this Chapter is impossible or impractical, the city plan commission may recommend and the city council may authorize waivers or modifications to such standards so that substantial justice may be done and the public interest secured.

### **88-405-25-B. PROCEDURE**

Waivers and modifications must be identified on the preliminary plat and must be considered as part of the subdivision review and approval process.

### **88-405-25-C. REVIEW CRITERIA**

To recommend or approve a waiver or modification of subdivision design and improvement standards, the city plan commission and city council must determine that all of the following conditions exist:

1. that there are special circumstances or conditions affecting the property;
2. that the waiver or modification is necessary for reasonable and acceptable development of the property in question and is not a greater modification or waiver than is required to allow reasonable and acceptable development of the subject property; and
3. that the granting of the waiver or modification will not be detrimental to the public welfare or injurious to other property in the vicinity in which the subject property is situated.

## **88-405-26 PLATS STRADDLING JURISDICTIONAL BOUNDARIES**

Wherever access to a subdivision is required across land within another municipality or political jurisdiction, the city plan commission may request an opinion from the city attorney that access is legally established, and also from the city planning and development director to ensure that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient to ensure construction of the access road.

## **88-410 OPEN SPACE DEVELOPMENTS & CONSERVATION DEVELOPMENTS**

### **88-410-01 PURPOSE/DESCRIPTION**

**88-410-01-A.** The regulations of this section are intended to encourage subdivision design that is more efficient and provides more open space and greater natural resource protection than conventional development designs. Open space development and conservation development designs allow more compact and less costly networks of roads and utilities. They can also help reduce stormwater run-off and non-point source pollutant loading rates and can be used to preserve an area's semi-rural character. Open space developments and conservation developments are intended to reduce stormwater runoff and flooding, preserve

natural resources, protect water quality and encourage the provision of needed open space and recreational amenities for residents.

**88-410-01-B.** The open space development and conservation development standards of this section require that a specified portion of each development be set aside and permanently preserved as open space. The primary difference between “open space” developments and “conservation” developments is the amount of open space that must be preserved.

**88-410-01-C.** The required open space area within open space developments or conservation developments can be used to provide recreational opportunities for the subdivision’s residents and/or to conserve and protect significant natural resources, such as stream buffers.

#### **88-410-02 SITE AREA AND OPEN SPACE REQUIREMENTS**

Open space developments and conservation developments must comply with the minimum site area and minimum open space standards of 88-110-06-B (Table 110-2).

#### **88-410-03 LOT AND BUILDING STANDARDS**

Open space developments and conservation developments must comply with the lot and building standards of 88-110-06-B (Table 110-2) except as expressly stated in this zoning and development code.

#### **88-410-04 MAXIMUM DENSITY AND NET SITE AREA**

**88-410-04-A.** The maximum number of dwelling units allowed within an open space developments or conservation development is computed by dividing the net area of the site by the applicable minimum-lot-area-per unit standard 88-110-06-B (*Table 110-2*). Net site area is to be calculated by subtracting all of the following from the site’s gross land area:

1. the streamside zone of required stream buffers (see 88-415-03-A);
2. the middle zone of required stream buffers (see 88-415-03-B); and
3. water bodies with a contiguous area of more than 5,000 square feet.

**88-410-04-B.** If the open space developments or conservation development site (subdivision) is located in more than one zoning district, the maximum number of dwelling units allowed must be determined separately for each portion of the site lying within a different zoning district. Density may be transferred from one portion of the site to another, provided that such transfers do not result in an increase in the number of dwelling units allowed on the overall site.

#### **88-410-05 GENERAL DEVELOPMENT DESIGN**

**88-410-05-A.** Open space developments and conservation developments are subject to all other subdivision design and improvement standards of this zoning and development code unless otherwise expressly stated.

**88-410-05-B.** Lots and development sites within open space developments and conservation developments must, to the maximum extent practical, be located outside of areas containing woodlands, grasslands, surface waters, steep slopes drainageways, rock outcroppings and other natural resource features.

**88-410-05-C.** Impervious areas must be limited and, to the maximum extent practical, be sited and designed to minimize stormwater runoff impact to the watershed's receiving waters by:

1. minimizing concentrated stormwater flow;
2. breaking up or disconnecting large areas of impervious surface into smaller areas;
3. maximizing the use of sheet flow through vegetated areas; and
4. maximizing the flow length through vegetated areas.

## **88-410-06 OPEN SPACE**

### **88-410-06-A. GENERAL**

Open space provided to meet minimum open space requirements must be in one or more parcels dedicated or otherwise protected as permanent, active or passive open space. Any city-accepted parkland or open space area under 88-405-17 will be counted towards meeting minimum open space standards.

### **88-410-06-B. USE, LOCATION AND DESIGN**

1. Open space must be dedicated or reserved for one or more of the following uses:
  - (a) conservation of, and avoidance of development in, any readily identifiable natural hazard areas, i.e., areas that potentially pose a significant hazard to people or property (e.g., drainageways, wetlands, and lands whose slope and/or soils make them particularly susceptible to subsidence or erosion when disturbed by development activities);
  - (b) conservation and protection of mature riparian vegetation within the outer zone of a stream buffer;
  - (c) conservation and protection of any identified significant natural areas (e.g., rare plant communities and wildlife habitat) or other environmentally sensitive areas where development might threaten water quality or ecosystems;
  - (d) conservation and protection of any identified significant historic or cultural resources; or
  - (e) provision of active and/or passive outdoor recreation opportunities (e.g., ball fields, playgrounds, tennis courts, swimming pools, basketball courts, golf courses, bikeways, walking trails, nature trails, and picnic areas), either for the general public or for the subdivision's residents or employees and their guests. (Note: this provision is not intended to preclude a membership requirement or monetary charge for use of recreation facilities such as a golf, swim or tennis club, as long as subdivision residents have an opportunity to join the club or pay to use club facilities.)
2. Highest priority for the location, design, and use of open space must be given to conserving, and avoiding development in, any natural hazard areas on the subdivision site.

3. Open space may contain active recreation areas (e.g., golf courses) and only such buildings, structures, accessways and parking facilities as are necessary and accessory to its principal uses (e.g., pedestrian paths, recreational club houses, utility lines, driveways, parking areas). All active recreation areas, permanent structures and impervious surfaces must be of a “low-impact” design, and management practices must be instituted to protect and enhance the natural character and function of the open space. Such development requires:
  - (a) a tree and native vegetation preservation plan that limits site disturbance to the minimum required for construction and protects mature vegetation areas from degradation;
  - (b) landscaping using native or naturalized plant species;
  - (c) low-input, natural vegetation management practices; and
  - (d) stormwater best management practices.
4. Open space areas may be used for stormwater management in accordance with the city’s *Standards, Specifications and Design Criteria* and the city’s *Manual of Best Management Practices for Stormwater Quality*.
5. Open space areas may not be used for irrigation of reclaimed wastewater.
6. The location, size, character and shape of required open space must be appropriate for its intended use (e.g., open space proposed to be used for recreation, particularly active recreation, should be located and designed so that it can be accessed conveniently and safely by intended users, and open space to be used for ball fields, playing fields or other active recreational facilities should be located on land that is relatively flat and dry).

#### **88-410-06-C. OWNERSHIP AND MANAGEMENT OF OPEN SPACE**

1. The applicant must identify the owner of the open space. The designated owner and the owner’s successors are responsible for maintaining the open space and any associated facilities. If a property owners association is the owner, membership in the association is mandatory and automatic for all property owners of the subdivision and their successors. If a property owners association is the owner, the property owners association must have lien authority to ensure collection of dues from all members.
2. The applicant must submit a management plan for the open space and all common areas. The management plan must:
  - (a) allocate responsibility and guidelines for the maintenance and operation of the open space and any associated facilities, including provisions for ongoing maintenance and for long-term capital improvements;
  - (b) estimate the costs and staffing requirements needed for maintenance, operation and insurance and outline the means by which necessary funding will be obtained or provided;
  - (c) provide that any changes to the management plan be approved by the development review committee; and

- (d) provide for enforcement of the management plan.
3. In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition, the city may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance, plus any administrative costs and penalties, may be charged to the owner, property owner association, or to the individual property owners that make up the property owners association. Unpaid costs will become a lien on all subdivision properties.

#### **88-410-06-D.BOUNDARY MARKERS**

1. Boundary markers must be put in place clearly marking required open space areas before, during and after construction.
2. Boundary markers must be installed at the intersection of private lot lines with the outer edge of the permanent open space area before receiving final city approval of plans for clearing, grading, or sediment and erosion control.
3. Construction fencing must be placed at the outer edge of the existing vegetation to be preserved in the permanent open space area. This fencing must be maintained throughout the construction process.
4. Permanent signs must be placed at the edge of the permanent open space. as follows:
  - (a) For single-lot developments, signs must be posted every 100 feet along the open space boundary.
  - (b) For multiple lots located along an open space set-aside, signs must be located at the intersection of every other lot line along the open space.
5. Required signs must read: "Permanent Open Space Set-Aside – Do Not Disturb (City Code Section 88-410)," with the sign message located approximately 4 feet above the ground. Signs must be maintained and remain legible at all times.

#### **88-410-06-E.LEGAL INSTRUMENT FOR PERMANENT PROTECTION**

1. The open space must be protected in perpetuity by a binding legal instrument that is recorded with the deed. The legal instrument must be one of the following:
  - (a) a permanent conservation easement (RSMO 67.880) in favor of either:
    - (1) a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization must be bona fide and in perpetual existence and the conveyance instruments must contain an appropriate provision for transfer in the event the organization becomes unable to carry out its functions;
    - (2) a governmental entity (if the entity accepting the easement is not the city, then a third right of enforcement favoring the city must be included in the easement);

- (b) an open space tract protected by a permanent restrictive covenant for conservation purposes in favor of a governmental entity; or
- (c) an equivalent legal tool that provides permanent protection, as approved by the city attorney.

2. The instrument for permanent protection must include clear restrictions on the use of the open space. These restrictions must include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the open space.

## **88-415 STREAM BUFFERS**

### **88-415-01 PURPOSE**

In the Kansas City region and throughout the nation, vegetated stream buffers have been clearly shown to protect stream stability and related infrastructure, improve water quality, conserve wildlife habitat and provide flood water conveyance. The stream buffer standards of this article are intended to protect public safety and public infrastructure investments while mitigating the adverse environmental impacts that development can have on streams and associated natural resource areas. Other purposes of the stream buffer regulations include:

- 88-415-01-A.** helping protect life and property;
- 88-415-01-B.** improving stormwater management and helping to prevent flooding;
- 88-415-01-C.** protecting environmental quality, including the quality of water resources and wildlife habitat;
- 88-415-01-D.** decreasing infrastructure repair, maintenance and replacement costs;
- 88-415-01-E.** providing open space amenities;
- 88-415-01-F.** providing potential opportunities for trail location;
- 88-415-01-G.** increasing the public's knowledge and understanding of natural resource protection issues and
- 88-415-01-H.** providing certainty as well as flexibility in order to maximize sustainable economic development.

### **88-415-02 SCOPE AND APPLICABILITY**

**88-415-02-A.** The stream buffer standards of this article apply to all stream corridors identified on the *Kansas City Natural Resource Map*. In the event of conflict between the stream buffer standards of this article and the stream buffer provisions of the city's *Standards, Specifications and Design Criteria*, the stream buffer standards of this article govern. If a variance is obtained, the stream buffer provisions apply to the relocated stream and mitigated natural resources. For the purpose of this article, storm sewer systems, human-made channels (except those designed to function as natural streams) and roadside ditches are not considered streams and are not subject to the stream buffer provisions of this article.

**88-415-02-B.** In the event of conflict between the stream buffer regulations of this article and Federal Aviation Administration (FAA) requirements, FAA requirements govern.

**88-415-02-C.** The stream buffer regulations of this article are not intended to prohibit maintenance of existing city-owned facilities within the stream buffer, nor do the regulations require the removal of lawfully established facilities or improvements from the stream buffer area.

**88-415-02-D.** Beginning February 14, 2009, the stream buffer regulations of this article (88-415) will apply to all applications for approval of minor site plans, major site plans, preliminary plats, final plats and amendments to such plans or plats except as follows:

1. If the city plan commission has not recommended approval of a final plat for a unified development plan, preliminary plan, development plan or preliminary plat that was approved before January 1, 2003 (referred to as a “pre-2003 approved plan”), the regulations of this article will not apply to any phases of the pre-2003 approved plan as long as the city plan commission recommends approval of the first final plat within one year of the date that the city planning and development director sends certified mail notice of this requirement to the subject property owner.
2. If the city plan commission has recommended approval of a final plat for a pre-2003 approved plan before February 14, 2009, the regulations of this article will not apply to any phases of the pre-2003 approved plan as long as the city plan commission recommends approval of the next final plat for the pre-2003 approved plan by February 14, 2014.
3. In all other cases where a unified development plan, preliminary plan, development plan or preliminary plat has been approved after January 1, 2003 and before February 14, 2009, the regulations of this article will not apply to any phases of the unified development plan, preliminary plan, development plan or preliminary plat as long as the city plan commission recommends approval of the next final plat by February 14, 2014.
4. If the requirements of 88-415-02-D.1, 88-415-02-D.2 and 88-415-02-D.3 have been met, the regulations of this article will not apply to any phases of the unified development plan, preliminary plan, development plan or preliminary plat as long as the city plan commission recommends approval of each subsequent final plat within 3 years of the date that city plan commission recommended approval of the immediately preceding final plat.
5. The regulations of this article will not apply to amended development plans or amended preliminary plats if no significant changes are made. A significant change is any change that: (1) adds additional land area to the approved plan; (2) changes the overall land use in a way that would increase stormwater runoff volumes and rates; (3) increases the number of lots by 10% or more (as compared to the number of lots included in the originally approved plan/plat); or (4) increases the developed area by 10% or more (as compared to the originally approved plan/plat).
6. The regulations of this article will not apply to amended development plans or amended preliminary plats if the proposed changes to the development plan or preliminary plat are not located in an area on the development plan or preliminary plat where the buffer requirements would normally apply. If the proposed changes are located in an area where the stream buffer requirements would normally

apply, then the amendment of that area on the plan/plat must comply with the regulations of this article for the amended area only.

**88-415-02-E.** The city planning and development director is authorized to approve an extension of the time frames established in 88-415-02-D.1, 88-415-02-D.2, 88-415-02-D.3 and 88-415-02-D.4 for a maximum of one year. Extension requests must be submitted in writing and include an explanation and justification for the request.

**88-415-02-F.** For purposes of this section (88-415-02), “unified development” means a development consisting of one or more zoning or subdivision applications that were approved by city council on or about the same date on contiguous property through the same applicant. Additionally, for purposes of this section, commercial and residential plans approved collectively as one unified development (although approved through separate ordinances and plans) will be construed to be a single approved preliminary plan or phase.

### **88-415-03 BUFFER ZONES**

Required stream buffer widths are measured horizontally from the edge of stream. The overall required buffer is organized into 3 zones, as follows:

#### **88-415-03-A. STREAMSIDE ZONE**

The streamside zone extends 25 feet landward from the edge of stream.

#### **88-415-03-B. MIDDLE ZONE**

The middle zone extends landward from the outer edge of the streamside zone and encompasses the FEMA- or city-designated 1% (i.e., 100-year) floodplain where applicable, or the limits of the 1% (i.e., 100-year) conveyance, as determined by a qualified engineer using city-approved methods; and jurisdictional wetlands as determined using U.S. Army Corps of Engineers delineation methods or other city-approved means. Where wetland fills and mitigation are approved by the U.S. Army Corps of Engineers, the middle zone will be adjusted to exclude filled wetlands and include mitigated wetlands contiguous to the floodplain or flood conveyance.

#### **88-415-03-C. OUTER ZONE**

The outer zone extends landward 75 feet from the outer edge of the middle zone. When slopes exceeding 15% or mature riparian vegetation areas are contiguous with the middle zone boundary, the width of the outer zone is expanded to encompass such resource areas. Mature riparian vegetation includes vegetation areas that are field-surveyed, as described in 88-415-07-D. The maximum extent of the outer zone is established, at the landowner's election, as follows:

1. If 100% of the outer zone area is set aside and protected as permanent open space, the maximum extent of the outer zone is 150 feet, as measured from the edge of the middle zone.
2. If portions of the outer zone are to be developed pursuant to Sec. 88-415-05-C.2 through Sec. 88-415-05-C.4 and Sec. 88-415-07-C.1, the maximum extent of the outer zone is 250 feet.

## **88-415-04 FLEXIBILITY**

**88-415-04-A.** The stream buffer regulations of this article have the effect of limiting development near streams identified on the *Kansas City Natural Resource Map*.

**88-415-04-B.** To help offset potential adverse impacts on development yields for property near stream corridors, property owners are encouraged to use the open space development and conservation development options of Article 88-410 for residential development.

## **88-415-05 ALLOWED USE OF BUFFER ZONES**

Stream buffers—including any floodplains, wetlands, slopes over 15%, and mature riparian vegetation areas—must be managed to enhance and maximize their natural resource value. Management includes specific limitations on alteration of the natural conditions of these resources. The following practices and activities are allowed within stream buffers.

### **88-415-05-A. STREAMSIDE ZONE**

1. Activity in the streamside zone is limited to vegetation management to maintain healthy, existing, native vegetation; streambank stabilization; road, trail, and utility crossings and stormwater outfalls designed in accordance with the city's *Standards, Specifications and Design Criteria*. Stream access for fishing and wildlife viewing and trail overlook areas are allowed if they are in compliance with the city's *Standards, Specifications and Design Criteria* and maintain the integrity of the stream buffer.
2. Trails may encroach into the streamside zone only when approved as an administrative adjustment in accordance with 88-570. Administrative adjustments for (paved or unpaved) trail encroachments into the streamside zone may be approved only when the city planning and development director determines that alternative alignments are not feasible because of topography, the presence of existing structures such as bridges or flood control levees, the inability to acquire property to accommodate other trail alignments, or that the trail represents the termini of existing trails and trail rights-of-way. Streambanks and natural resource areas affected by allowed encroachments must be stabilized in accordance with the city's *Standards, Specifications and Design Criteria*, and natural resources must be mitigated in accordance with 88-415-07-C and 88-415-08-B.4.
3. This subsection does not apply to public utility or trail corridors when ownership, an easement, or a binding access agreement is secured prior to February 14, 2009.

### **88-415-05-B. MIDDLE ZONE**

Any activity allowed in the streamside zone is allowed in the middle zone. The following additional uses and activities are also allowed in the middle zone:

1. underground utility corridors that are fully vegetated and designed in accordance with the city's *Standards, Specifications and Design Criteria* and all applicable state and federal requirements; and
2. paved and unpaved recreational trails for hiking and biking.

**88-415-05-C. OUTER ZONE**

Any activity allowed in the streamside and middle zones is allowed in the outer zone. The following additional uses and activities are also allowed in the outer zone:

1. BMP's as outlined in the *Manual of Best Management Practices for Stormwater Quality* and used in conjunction with the city's *Standards, Specifications and Design Criteria*. BMP's and related activities include:
  - (a) stormwater management;
  - (b) BMP maintenance such as sediment removal and harvesting of vegetation; and
  - (c) stormwater discharge with appropriate energy dissipation and native vegetation to preserve the integrity of the area.
2. Property owners who elect to establish the maximum outer zone width in accordance with Sec. 88-415-03-C.2 may develop in the outer zone, subject to the following standards:
  - (a) no more than 40% of the outer zone area may be disturbed (i.e., cleared of mature riparian vegetation and/or graded) unless mitigation is provided in accordance with 88-415-07-C); and
  - (b) no more than 50% of the outer zone area may be disturbed where mitigation is provided in accordance with 88-415-07-C.
3. Areas required to be undisturbed within the outer zone may not contain permanent buildings, structures, impervious cover or active recreation facilities, such as golf courses or athletic fields.
4. Property owners who elect to establish the maximum outer zone width in accordance with Sec. 88-415-03-C.2 may also elect to use the conservation development option of Article 88-410 for residential development within the outer zone. In such cases, they may elect to establish a conservation subdivision for the entire development site or confine the conservation subdivision to the outer zone area only. When a conservation subdivision is confined to the outer zone area, minimum conservation subdivision open space requirements apply only to the outer zone area.
5. For nonresidential development that includes protected stream corridors, building heights may be increased by up to 20% over otherwise applicable height limits, and minimum off-street parking ratios may be reduced by up to 20%.

**88-415-05-D. ALL STREAM BUFFER ZONES**

In addition to the activities expressly allowed in the streamside, middle and outer stream buffer zones pursuant to 88-415-05-A, 88-415-05-B and 88-415-05-C, the following uses and activities are allowed in all stream buffer zones provided that mature riparian vegetation is disturbed as little as is reasonably practical:

1. existing and on-going agricultural activities (except in the streamside zone);
2. maintenance/repair of public rights-of-way, streets, and public structures;

3. site investigation work including surveys, soil logs, percolation tests, and special tests;
4. reconstruction, remodeling, or maintenance of existing structures as long as these activities do not expand into and/or adversely impact the buffers;
5. control of noxious and/or invasive vegetation;
6. emergency actions necessary to prevent dangers to public health or safety, environmental degradation, or public and private property; and
7. open space uses that protect natural resources such as wildlife sanctuaries, forest preserves, nature centers, picnic areas, and similar uses, as well as game farms, fish hatcheries, hunting or fishing preserves or other activities designed for the protection or propagation of wildlife.

#### **88-415-06 PROHIBITED ACTIVITIES AND USES**

Any activity or use that is not identified as being allowed within required stream buffers is prohibited. Streams regulated by this article may not be enclosed, relocated, dammed or inundated unless all necessary city, state and federal approvals are first obtained.

#### **88-415-07 ADDITIONAL STANDARDS**

The following additional standards apply within stream buffers.

##### **88-415-07-A. CONTINUOUS VEGETATION**

When existing vegetation within stream buffers is disturbed, required buffers must be revegetated with appropriate native riparian vegetation.

##### **88-415-07-B. STORMWATER DISCHARGE**

Direct stormwater discharge into stream channels is allowed only in accordance with the city's *Standards, Specifications and Design Criteria*.

##### **88-415-07-C. MITIGATION**

1. Property owners who elect to establish the maximum outer zone width in accordance with Sec. 88-415-03-C.2 may exceed the 40% disturbance limit established in 88-415-05-C.2(a) by an additional 10%, up to 50%. This additional disturbance is allowed if an equal or greater land area is added to the outer zone to mitigate the additional allowed (10%) disturbance and if the applicant mitigates the impacts by maintaining natural resource functions, including base flood elevations and stream stability and geomorphology, and by replacing existing mature riparian vegetation with an equivalent amount of appropriate native riparian vegetation.
2. Mitigation areas become part of the property's permanent open space and must be:
  - (a) contiguous to the original outer zone;
  - (b) permanently stabilized where slopes greater than 15% are present;
  - (c) revegetated in accordance with 88-415-07-A;

- (d) established and maintained in accordance with the provisions of this article and Article 88-410;
- (e) designed, established, and maintained in accordance with the city's *Standards, Specifications and Design Criteria* and applicable state and federal laws and regulations; and
- (f) completed during the development phase in which disturbance occurs, if applicable.

3. The mitigation standards of this section also apply whenever an exception to stream buffer standards is approved.

**88-415-07-D.BUFFER PLAN**

- 1. A stream buffer plan must be provided when the stream buffer standards apply. The plan must delineate the buffer zones and the proposed development site in relation to:
  - (a) the FEMA- or city-designated floodplain or the estimated 1% flood conveyance, as determined by a qualified engineer using city-approved methods;
  - (b) wetlands within or adjacent to the floodplain or required stream buffer;
  - (c) slopes in excess of 15% within or adjacent to the floodplain, as field-surveyed; and
  - (d) mature riparian vegetation, including woodlands, wetlands, and other habitat areas identified by a field survey.
- 2. A preliminary buffer plan must be submitted for city review with preliminary plats and site plans. The preliminary buffer plan must include a plan at a scale no smaller than 1" = 100' showing at a minimum:
  - (a) existing topography with at least 2-foot contour intervals;
  - (b) approximate stream locations based on approved city geographic information system mapping or city-approved mapping from state and federal agencies;
  - (c) approximate boundary of the FEMA- or city-designated floodplain based on city-approved geographic information system mapping or federal mapping;
  - (d) approximate 1% flood conveyance limits where no regulatory floodplain is identified as determined by a qualified engineer using city-approved methods;
  - (e) approximate wetland locations from the Mid-America Regional Council *Natural Resource Inventory*, or the U.S. Fish and Wildlife Service *National Wetlands Inventory*;
  - (f) approximate boundary of existing, mature riparian vegetation based on a field survey;
  - (g) slopes of 15% or greater in each sub-drainage area based on city-approved geographic information system mapping or a site topographic survey;

- (h) the location of proposed structures or activities;
- (i) identification of required stream buffer zones based on city-approved geographic information system mapping or a site topographic survey and a survey of mature riparian vegetation;
- (j) the total acreage of mature riparian vegetation and steep slopes in the outer zone;
- (k) the location and total acreage of proposed clearing and grading in the outer zone and the percentage of proposed outer zone area to be cleared (if applicable in accordance with Sec. 88-415-03-C); and
- (l) the limits and total acreage of proposed mitigation of outer zone vegetation, and the percentage of outer zone area to be mitigated (if applicable in accordance with Sec. 88-415-07-C).

3. The final buffer plan must be submitted for city review with or be included in final plats and site plans. The final buffer plan must include a plan at a scale not smaller than 1"= 100' showing at a minimum:

- (a) existing topography with at least 2-foot contour intervals;
- (b) field delineated, marked, and surveyed streams and wetlands;
- (c) field delineated, marked, and surveyed mature riparian vegetation limits as described in 88-415-07-D.4;
- (d) existing sub-drainage areas of the site;
- (e) slopes of 15% or greater in each sub-drainage area based on a site topographic survey;
- (f) the location of proposed structures or activities;
- (g) the location of field delineated and surveyed stream buffer zones;
- (h) the total acreage of mature riparian vegetation and steep slopes in the outer zone;
- (i) the location and total acreage of proposed clearing and grading in the outer zone, and the percentage of proposed outer zone area to be cleared (if applicable in accordance with Sec. 88-415-03-C); and
- (j) the limits and total acreage of proposed mitigation of outer zone vegetation and the percentage of outer zone area to be mitigated (if applicable in accordance with Sec. 88-415-07-C).

4. Field surveys of mature riparian vegetation must identify the limits of the mature riparian vegetation for inclusion with the preliminary and final buffer plans, to a maximum of 250 feet from the edge of the middle zone or 150 feet from the edge of the middle zone at the property owner's election pursuant to Sec. 88-415-03-C. At a minimum, a licensed surveyor, professional engineer or landscape architect must delineate the existing edge of the tree canopy. The survey must identify the critical root zone of all trees at the mapped canopy cover boundary with a

diameter breast height (DBH) of 10 inches or greater. The surveyor may identify specific tree species to more accurately delineate the riparian vegetation boundary if the mature vegetation appears to extend into uplands. The riparian boundary is assumed to exist when less than 50% of the mature trees (10-inch DBH or greater) are of riparian or bottomland species as defined by *The Terrestrial Natural Communities of Missouri* (Nelson 2006) and approved by the city. The surveyor must delineate the canopy cover boundary of the mature riparian tree specimens.

#### **88-415-07-E. BOUNDARY MARKERS**

1. Boundary markers must be put in place clearly marking required stream buffers before, during and after construction.
2. Boundary markers must be installed at the intersection of private lot lines with the outer edge of the permanent open space before receiving final city approval of plans for clearing, grading, or sediment and erosion control.
3. Construction fencing must be placed at the outer edge of the permanent open space in the outer zone to delineate the buffer. This fencing must be maintained throughout the construction process.
4. Permanent signs must be placed at the edge of the permanent open space after construction to denote the buffer as follows:
  - (a) For single-lot developments, signs must be posted every 100 feet along the boundary of the permanent open space.
  - (b) For multiple lots located along a buffer, signs must be located at the intersection of every other lot line along the boundary of the permanent open space.
5. Required signs must read: "Protected Stream Buffer – Do Not Disturb (City Code Section 88-415)," with the sign message located approximately 4 feet above the ground. Signs must be maintained and remain legible at all times.

#### **88-415-08 ADMINISTRATION AND PROCEDURES**

##### **88-415-08-A. REVIEW FOR COMPLIANCE**

Review for compliance with these standards will be conducted in conjunction with platting. Developments that are not subject to platting, will be subject to site plan review, which must be conducted prior to application for a building permit.

##### **88-415-08-B. EXCEPTIONS**

Exceptions to the stream buffer standards of this section may be approved by the city council subject to all applicable city, state and federal regulations. When exceptions are approved, applicants must mitigate impacts in accordance with the mitigation standards 88-415-07-C.

1. In order to approve an exception request, the city council must find that strict application of one or more stream buffer standards would result in an unnecessary hardship for the subject property and that such unnecessary hardship is unique to the subject property and not generally applicable to other similarly situated property. In order to approve the exception request, the city council must also

determine that adequate measures will be put in place to protect the integrity of the stream buffer that includes appropriate mitigation of disturbed natural resources.

2. Applicants must submit a stream buffer exception application and mitigation plan to the city planning and development department. The exception application and/or mitigation plan must include the following:
  - (a) a written description of the perceived hardship;
  - (b) a description of all measures taken to avoid or otherwise minimize encroachment into the buffer zone (beyond the extent of encroachment allowed by 88-415-05-C.2);
  - (c) proposed mitigation for any encroachment, as required by 88-415-08-B.4; and
  - (d) a preliminary buffer plan, as required by 88-415-07-D that clearly displays the location and total acreage of proposed clearing and grading, and the percentage of outer zone area proposed to be cleared. The buffer plan must also include the limits and total acreage of proposed mitigation, and ratio of proposed mitigation to cleared area.
3. The department must review the plan for compliance with the stream buffer regulations of this article and recommend that the exception request be approved, approved with conditions or denied. An exception may be recommended for approval when the city planning and development director determines that a bona fide hardship exists and when the integrity of the stream corridor will be protected through avoidance, minimization and appropriate mitigation measures.
4. Disturbed natural resources must also be mitigated in conjunction with 88-415-07-C. Any additional mitigation beyond that allowed in 88-415-07-C must comply with the following criteria. Revegetation or restoration of any portion of the original disturbance counts toward the required mitigation.
  - (a) Mitigation of outer zone vegetation that is contiguous to the remaining outer zone vegetation must be provided at a ratio of 1.5 units of mitigation area to 1 unit of existing outer zone area.
  - (b) Mitigation of outer zone vegetation that is not contiguous to the remaining outer zone vegetation but is along the same stream reach must be provided at a ratio of 2 to 1.
  - (c) Mitigation of outer zone vegetation that is not located along the same stream reach, but is provided within the same watershed, must be provided at a ratio of 2.5 to 1.
  - (d) Mitigation of outer zone vegetation that is not located in the same watershed must be provided at a ratio of 3 to 1.
  - (e) In all cases, a continuous outer zone vegetation connection of at least 25 feet must be maintained to avoid fragmenting the vegetated area.
  - (f) Encroachment into the middle or streamside zones or alteration of the stream channel must be mitigated at a ratio of 4 to 1.

(g) The city planning and development director may approve mitigation at city-designated locations in lieu of locations owned or controlled by the applicant.

5. Utilities may encroach into the streamside zone only when available system connection points physically preclude an alignment farther from the edge of stream, or, in the case of sanitary and storm sewers, when the controlling elevations provide insufficient head for normal system function. Streambanks and natural resource areas affected by allowed encroachments must be stabilized in accordance with the city's *Standards, Specifications and Design Criteria*, and natural resources must be mitigated in accordance with 88-415-07-C and 88-415-08-B.4.

### **88-415-08-C.MAP REVISIONS**

The city planning and development director is authorized to maintain and periodically update the *Kansas City Natural Resource Map* to ensure its accuracy. Map updates that add stream reaches or otherwise have the effect of expanding the land area affected by the stream buffer regulations of this article must be noticed in the same manner as zoning map amendments (See 88-515-04).

### **88-415-09 OWNERSHIP AND RESPONSIBILITY FOR STREAM BUFFERS**

Stream buffers must be established and recorded by the developer or property owner. Particular zones may be established and protected by different methods. One or more of the following methods must be used to provide for the preservation of the stream buffer in perpetuity:

**88-415-09-A.**drainage or conservation easements;

**88-415-09-B.**inclusion in a development's common area through a restrictive covenant involving both the city and the property owners association; or

**88-415-09-C.**dedication to the city with the city's acceptance.

### **88-415-10 INSPECTIONS**

Required stream buffers must be accessible to city representatives to facilitate inspection, construction, maintenance and other activities related to the stream and public infrastructure in the buffer area.

## **88-420 PARKING AND LOADING**

### **88-420-01 SCOPE AND PURPOSE**

The regulations of this article are intended to ensure provision of off-street parking and loading facilities in rough proportion to the generalized parking and loading demands of different land uses. By requiring such facilities, it is the intent of this article to help avoid the negative impacts associated with spillover parking into adjacent neighborhoods, while at the same time avoiding the negative environmental and urban design impacts that can result from parking lots and other vehicular use areas.

## **88-420-02 APPLICABILITY**

### **88-420-02-A. NEW DEVELOPMENT**

Unless otherwise expressly stated, the parking and loading standards of this article apply to all new buildings constructed and all new uses established in all zoning districts.

### **88-420-02-B. ENLARGEMENTS AND EXPANSIONS**

1. Unless otherwise expressly stated, the parking and loading standards of this article apply whenever an existing building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity, employees or other units of measurement used for establishing off-street parking and loading requirements.
2. In the case of enlargements or expansions triggering requirements for additional parking or loading, additional off-street parking and loading spaces are required only to serve the enlarged or expanded area, not the entire building or use. In other words, there is no requirement to address lawfully existing parking or loading deficits.

### **88-420-02-C. CHANGE OF USE OR OCCUPANCY**

Unless otherwise expressly stated, when the use or occupancy of property changes, additional off-street parking and loading facilities must be provided to serve the new use or occupancy only when the number of parking or loading spaces required for the new use or occupancy exceeds the number of spaces required for the use that most recently occupied the building, based on the standards of this zoning and development code. In other words, "credit" is given to the most recent lawful use of the property for the number of parking spaces that would be required under this zoning and development code, regardless of whether such spaces are actually provided. A new nonresidential use is not required to address a lawful, existing parking deficit.

## **88-420-03 DAMAGE OR DESTRUCTION**

When a use that has been damaged or destroyed by fire, collapse, explosion, or other cause is re-established, off-street parking or loading facilities must also be re-established or continued in operation in an amount equal to the number maintained at the time of such damage or destruction. It is not necessary, however, to restore or maintain parking or loading facilities in excess of those required by this zoning and development code.

## **88-420-04 EXEMPTIONS, REDUCTIONS AND SPECIAL AREA STANDARDS**

### **88-420-04-A. DC ZONING DISTRICT**

No off-street parking is required in the DC (Downtown Core) zoning district.

### **88-420-04-B. DX ZONING DISTRICT**

Nonresidential uses in the DX district outside of the Crossroads area are not required to provide off-street parking unless such uses exceed 4,000 square feet of gross floor area, in which case off-street parking must be provided for the floor area in excess of 4,000 square feet.

#### **88-420-04-C. CROSSROADS AREA**

1. Retail sales-related uses in the Crossroads area are not required to provide off-street parking for the first 4,000 square feet of gross floor area. For purposes of this paragraph, "retail sales-related uses" include general retail sales; food and beverage retail sales; and other uses that are primarily involved in the sales of goods to the general public.
2. Restaurants in the Crossroads area are not required to provide off-street parking spaces for the first 2,000 square feet of gross floor area.

#### **88-420-04-D. BROOKSIDE BUSINESS DISTRICT AREA**

There are no minimum nonresidential parking requirements or residential parking requirements for residential units in mixed-use structures in the Brookside Business District Area. Individual non-residential uses may not provide more than 1.5 times the minimum parking requirements of 88-420-06 on the same lot or on a combination of the same and contiguous lots in any zoning district, provided however, any individual use that would require 4 or fewer spaces may provide up to 6 parking spaces. Multiple tenants in a common structure or structures sharing a common wall will be considered an individual use for purposes of this calculation. Mixed-use structures may provide a maximum of one parking space per dwelling unit for purposes of this calculation.

*Editor's Note: Intended to apply in the area zoned BBD immediately prior to June 1, 2010.*

#### **88-420-04-E. DOWNTOWN LOOP**

Uses within the Downtown Loop are not required to provide off-street parking.

#### **88-420-04-F. B1 ZONING DISTRICT**

Nonresidential uses in the B1 district are not required to provide off-street parking unless such uses exceed 2,000 square feet of gross floor area, in which case off-street parking must be provided for the floor area in excess of 2,000 square feet.

#### **88-420-04-G. PEDESTRIAN-ORIENTED OVERLAY DISTRICT**

Nonresidential uses that are subject to the P/O district regulations of Article 88-230 are not required to provide off-street parking unless such uses exceed 4,000 square feet of gross floor area, in which case off-street parking must be provided for the floor area in excess of 4,000 square feet.

#### **88-420-04-H. LANDMARKS AND HISTORIC DISTRICTS**

1. No off-street parking or loading spaces are required for rehabilitation or reuse of an official local or national historic landmark.
2. No off-street parking or loading spaces are required for rehabilitation or reuse of an existing contributing building within an official local or national historic district.

#### **88-420-04-I. WESTPORT AREA**

Restaurants in the Westport Area must provide off-street parking at a minimum rate of 2.5 spaces per 1,000 square feet.

**88-420-04-J. RAPID TRANSIT STOPS**

Special parking regulations apply to uses on lots located within 500 feet of a rapid transit stop, as follows.

1. Office and manufacturing uses are not required to provide off-street parking spaces for the first 10,000 square feet of gross floor area.
2. Retail sales-related uses are not required to provide off-street parking for the first 4,000 square feet of gross floor area. Retail sales-related uses may not exceed otherwise applicable minimum off-street parking requirements by more than 3 spaces or 33%, whichever is greater, unless such "extra" spaces are provided in an enclosed parking garage. For purposes of this paragraph, "retail sales-related uses" include general retail sales; food and beverage retail sales; and other uses that are primarily involved in the sales of goods to the general public.
3. Restaurants are not required to provide off-street parking for the first 2,000 square feet of gross floor area.

**88-420-04-K. EFFECT OF VEHICLE PARKING REDUCTION OR EXEMPTION ON BICYCLE PARKING REQUIREMENTS**

The bicycle parking requirements of 88-420-09 apply regardless of any vehicle parking exemptions and reductions authorized in this section (88-420-04).

**88-420-05 COMPLIANCE REQUIRED**

Existing parking and loading spaces may not be reduced below the minimum ratios established in this article or increased above any maximum parking ratios established in this article.

**88-420-06 PARKING RATIOS**

Except as otherwise expressly stated, off-street parking must be provided in accordance with the following minimum ratios. In lieu of complying with these minimum standards, applicants may apply for approval of an alternative compliance parking plan, in accordance with 88-420-14-B. See also the exemptions reductions and special area standards of 88-420-04. Bicycle parking must be provided in accordance with 88-420-09.

<b>USE GROUP</b>	
<b>Use Category</b>	<b>Minimum Vehicle Parking Ratio</b>
<b>R E S I D E N T I A L</b>	
<b>Household Living</b>	
└ Elderly Housing	1 per 3 dwelling units
└ All other	1 per dwelling unit
<b>Group Living</b>	1 per 4 dwelling units or 1 per 4 beds/sleeping rooms
<b>P U B L I C / C I V I C</b>	
<b>College/University</b>	1 per 4 employees, plus 1 per 10 students
<b>Day Care</b>	
└ Home-based (1-4)	None
└ All other	1 per 4 employees

**COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 081033AS AMENDED**

<b>USE GROUP</b>	
<b>Use Category</b>	<b>Minimum Vehicle Parking Ratio</b>
└ specific use type	
<b>Hospital</b>	1 per 3 beds, plus 1 per 4 employees
<b>Library/Cultural Exhibit</b>	2.5 per 1,000 square feet
<b>Park/Recreation</b>	
└ Community center	2.5 per 1,000 square feet
└ All other park/recreation	per 88-420-08
<b>Religious Assembly</b>	1 per 7 seats in main assembly area
<b>Safety Service</b>	
└ Fire station	1 per 4 employees
└ Police station	1 per 4 employees
└ Ambulance service	1 per 4 employees
<b>School</b>	
└ Elementary/Junior High	1 per 4 employees
└ Senior High	1 per 4 employees, plus 1 per 15 students
<b>Utilities and Services</b>	
└ Basic, minor	None
└ All other utilities and services	per 88-420-08
<b>COMMERCIAL</b>	
<b>Adult Business</b>	
└ Adult media store	2.5 per 1,000 square feet
└ Adult motion picture theater	1 per 4 seats or person capacity
└ Sex shop	2.5 per 1,000 square feet
<b>Animal Service</b>	
└ Sales and grooming	2.5 per 1,000 square feet
└ Shelter or boarding	2.5 per 1,000 square feet, not including animal pen areas
└ Veterinary	2.5 per 1,000 square feet, not including animal pen areas
└ Stable	1 per 10 stalls
<b>Artist Work or Sales Space</b>	2.5 per 1,000 square feet of sales space
<b>Building Maintenance Service</b>	1 per 4 employees
<b>Business Equipment Sales and Service</b>	2.5 per 1,000 square feet
<b>Business Support Service</b>	
└ Day labor employment agency	per 88-420-08
└ Employment agency	2.5 per 1,000 square feet
└ All other business support service	2.5 per 1,000 square feet
<b>Communication Service</b>	2.5 per 1,000 square feet
<b>Eating and Drinking Establishments</b>	
└ Tavern or nightclub	20 per 1,000 square feet
└ All other eating/drinking establishments	10 per 1,000 square feet
<b>Entertainment and Spectator Sports</b>	1 per 4 seats or person capacity
<b>Financial Services</b>	
└ Pawn shop	2.5 per 1,000 square feet
└ All other financial services	2.5 per 1,000 square feet
<b>Food and Beverage Retail Sales</b>	2.5 per 1,000 square feet

<b>U S E   G R O U P</b>	
<b>Use Category</b>	<b>Minimum Vehicle Parking Ratio</b>
└ specific use type	
<b>Funeral and Interment Service</b>	
└ Cemetery/columbarium/mausoleum	per 88-420-08
└ Cremating	1 per 4 employees
└ Undertaking	1 per 4 seats or person capacity
<b>Gasoline and Fuel Sales</b>	1 per pump
<b>Lodging</b>	
└ 1–20 rooms	1 per room
└ 21–40 rooms	1 per 4 rooms
└ 41+ rooms	1 per 6 rooms
<b>Office, Admin. Professional or General</b>	1 per 1,000 square feet
<b>Office, Medical</b>	4 per 1,000 square feet
<b>Personal Improvement Service</b>	2.5 per 1,000 square feet
<b>Repair or Laundry Service, Consumer</b>	2.5 per 1,000 square feet
<b>Research Service</b>	1 per 1,000 square feet
<b>Retail Sales</b>	2.5 per 1,000 square feet
<b>Sports and Recreation, Participant</b>	
└ Indoor	1 per 4 seats or person capacity
└ Outdoor	per 88-420-08
<b>Vehicle Sales and Service</b>	
└ Car wash/cleaning service	None
└ Heavy equipment sales/rental	1 per 1,000 square feet of office space and covered display area
└ Light equipment sales/rental (indoor)	1 per 1,000 square feet of office space and covered display area
└ Light equipment sales/rental (outdoor)	1 per 1,000 square feet of office space and covered display area
└ Motor vehicle repair, limited	2 per service bay
└ Motor vehicle repair, general	2 per service bay
└ Vehicle storage/towing	1 per employee
<b>I N D U S T R I A L</b>	
<b>Manufacturing, Production and Industrial Service</b>	1 per 4 employees
<b>Recycling Service</b>	1 per 4 employees
<b>Residential Storage Warehouse</b>	3, plus 1 per 75 storage spaces
<b>Warehousing, Wholesaling, Freight Movement</b>	1 per 4 employees
<b>O T H E R</b>	
<b>Agriculture, Crop</b>	None
<b>Wireless Communication Facility</b>	None

## **88-420-07 CALCULATIONS**

The following rules apply when calculating the number of parking spaces required:

### **88-420-07-A. MULTIPLE USES**

Unless otherwise expressly stated, lots containing more than one principal use must provide parking in an amount equal to the total (cumulative) requirements for all principal uses.

### **88-420-07-B. AREA-BASED STANDARDS**

Unless otherwise expressly stated, all area-based (square footage) parking standards must be computed on the basis of gross floor area, which is to be determined by the outside dimensions of the building, less any area within the building devoted to parking. The city planning and development director is authorized to determine the floor area measurement of uses not located within buildings, based on the nature of the use, the expected duration of use and the amount of customer and employee-related vehicle traffic expected to be generated by the outdoor area.

### **88-420-07-C. EMPLOYEE- OR OCCUPANCY-BASED STANDARDS**

1. For the purpose of calculating parking requirements based on employees, students, or other occupants, calculations are to be based on the total persons and employees present or on duty at any one time when the maximum functional use of the building or land is being made.
2. The number of persons in assembly areas with fixed seating or a designed functional seating capacity is to be based on maximum functional seating capacity.
3. The number of persons in assembly areas without fixed seating or without a designed functional seating capacity is to be based on the total net floor area actually used for public assembly, divided by 15.
4. If more than one assembly area within a building is used simultaneously by different adult persons, then the capacity of all such assembly areas must be computed.
5. If several assembly areas within a building are not used simultaneously but are used by the same group of persons separately at different times, then the computation is to include only the assembly area comprising the maximum simultaneous occupancy.

## **88-420-08 ESTABLISHMENT OF OTHER PARKING RATIOS**

**88-420-08-A.** Upon receipt of an application of a use for which no parking ratio is established in 88-420-06, decision-making bodies may apply the parking ratio that applies to the most similar use or establish a different minimum parking requirement on the basis of parking data provided by the applicant and the city planning and development department.

**88-420-08-B.** When the use requires special use or similar approval, the final decision-making body on the special use or other approval is authorized to establish the applicable parking ratio. When the use is allowed as-of-right, the Planning Director is authorized to establish the applicable parking ratio.

**88-420-08-C.**Parking data and studies must include estimates of parking demand based on reliable data collected from comparable uses or on external data from credible research organizations. Comparability will be determined by density, scale, bulk, area, type of activity and location. Parking studies must document the source of all data used to develop recommended requirements.

## **88-420-09 BICYCLE PARKING**

### **88-420-09-A.GENERAL**

This section establishes requirements for short-term bicycle parking and long-term bicycle parking.

### **88-420-09-B.SHORT-TERM**

Short-term bicycle parking is generally intended to serve the needs of cyclists who park their bicycles for short time periods, including customers, clients and students.

#### **1. SPACES REQUIRED**

- (a) Short-term bicycle parking is required for multi-unit residential buildings containing more than 12 dwelling units and all nonresidential development. Unless otherwise expressly stated, all multi-unit residential buildings containing more than 12 dwelling units and all nonresidential uses must provide at least 3 short-term bicycle parking spaces or short-term bicycle spaces equal in number to at least 10% of the actual number of off-street vehicle parking spaces provided, whichever is greater.
- (b) The following minimum short-term bicycle parking requirements apply to colleges, universities, schools and libraries:
  - (1) Elementary and middle school: 1 space per 7 students;
  - (2) High school: 1 space per 10 students;
  - (3) Colleges and universities: 1 space per 4 students; and
  - (4) Libraries: 1 space per 5 vehicle parking spaces.
- (c) After the first 50 short-term bicycle parking spaces are provided, additional short-term bicycle parking spaces must be provided at 50% of the otherwise required ratio.

#### **2. DESIGN AND LOCATION**

##### **(a) GENERAL**

“Inverted-U” bike racks are required for short-term bicycle parking spaces. The city planning and development director is authorized to approve alternative designs that offer an equivalent level of safety, security and effectiveness. In all cases, required short-term bicycle parking spaces must:

- (1) consist of bike racks or lockers anchored so that they cannot be easily removed
- (2) be of solid construction, resistant to rust, corrosion, hammers, and saws;

- (3) allow both the bicycle frame and the wheels to be locked using a standard U-lock;
- (4) be designed so that they will not cause damage to the bicycle; and
- (5) facilitate easy locking without interference from or to adjacent bicycles.

**(b) SIZE**

Required short-term bicycle parking spaces must have minimum dimensions of 2 feet in width by 6 feet in length, with a minimum overhead vertical clearance of 7 feet.

**(c) LOCATION**

- (1) Required short-term bicycle parking spaces may be located indoors or outdoors.
- (2) Such spaces must be located on private property unless a right-of-way encroachment permit is obtained in accordance with Section 18-40, Section 3201 of the city code.
- (3) Required short term-bicycle facilities must be located in highly visible, active, well-illuminated areas that do not interfere with pedestrian movements.
- (4) Required short term-bicycle facilities must be located as near as practicable to the building, in an area that is visible to customers and employees entering and leaving the premises.
- (5) If required short-term bicycle parking facilities are not visible from the abutting street or the public building entrance, signs must be posted indicating their location.
- (6) Short-term bicycle parking spaces located within parking structures must be located on the ground level.

**88-420-09-C.LONG-TERM**

Long-term bicycle parking is generally intended to serve the needs of cyclists who park their bicycles for long time periods, including employees and residents.

**1. SPACES REQUIRED**

Long-term bicycle parking is required in accordance with the following minimum ratios:

USE GROUP	Minimum Long-Term Bicycle Parking Ratio
Use Category ↳ specific use type	
<b>R E S I D E N T I A L</b> Household Living ↳ Multi-unit building containing more than 12 dwelling units	1 per 3 dwelling units
<b>P U B L I C / C I V I C</b> Hospital	1+1 per 10 beds

<b>U S E   G R O U P</b>	<b>Minimum Long-Term Bicycle Parking Ratio</b>
<b>Use Category</b> ↳ specific use type	
<b>Library/Cultural Exhibit</b>	1+1 per 10,000 square feet
<b>School</b>	1+1 per 2 classrooms
<b>C O M M E R C I A L</b>	
<b>Eating and Drinking Establishments</b>	1+1 per 5,000 square feet
<b>Financial Services</b>	1+1 per 10,000 square feet
<b>Food and Beverage Retail Sales</b>	1+1 per 5,000 square feet
<b>Lodging</b>	1+1 per 30 rooms
<b>Office, Admin., Professional or General</b>	1+1 per 10,000 square feet
<b>Office, Medical</b>	1+1 per 10,000 square feet
<b>Research Service</b>	1+1 per 10,000 square feet
<b>Retail Sales</b>	1+1 per 10,000 square feet
<b>I N D U S T R I A L</b>	
<b>Manufacturing, Production and Industrial Service</b>	1 per 20 employees
<b>Warehousing, Wholesaling, Freight Movement</b>	1 per 20 employees

[1] After the first 50 long-term bicycle parking spaces are provided, additional long-term bicycle parking spaces must be provided at 50% of the otherwise required ratio.

(a) **DESIGN AND LOCATION**

(1) **General**

In all cases, required long-term bicycle parking spaces must:

- a. consist of bike racks or lockers anchored so that they cannot be easily removed
- b. be of solid construction, resistant to rust, corrosion, hammers, and saws;
- c. allow both the bicycle frame and the wheels to be locked using a standard U-lock;
- d. be designed so as not to cause damage to the bicycle; and
- e. facilitate easy locking without interference from or to adjacent bicycles.

(2) **Size**

Required long-term bicycle parking spaces must have minimum dimensions of 2 feet in width by 6 feet in length, with a minimum overhead vertical clearance of 7 feet.

(3) **Location**

Required long-term bicycle parking must be provided in at least one of the following locations:

- a. in a locked room;
- b. in an individual or community storage area;
- c. in a bicycle locker;
- d. in a locked area that is enclosed by a fence or wall with a minimum height of 8 feet;
- e. in a private garage serving a dwelling within a multi-unit (residential) building;
- f. inside a residential dwelling unit if the dwelling unit has an exterior ground floor entry;
- g. in an area within clear view of an attendant or security personnel;
- h. in an area continuously monitored by security cameras; or
- i. in an area that is visible to customers and employees entering and leaving the premises.

(4) **Covers**

Long term bicycle parking spaces may be provided either indoors or outdoors. All outdoor spaces must be covered by a roof overhang, canopy, awning or other approved structure, or be enclosed within a bicycle locker.

**88-420-09-D.NON-ACCESSORY PARKING FACILITIES**

Non-accessory parking facilities containing more than 50 parking spaces must provide at least two long-term bicycle parking spaces for each 50 vehicle parking spaces within the parking facility.

**88-420-09-E.ADMINISTRATIVE ADJUSTMENTS**

The city planning and development director is authorized to approve an administrative adjustment reducing the number of bicycle spaces required for a particular use in accordance with 88-570.

**88-420-09-F. INCENTIVE FOR OTHER BICYCLE FACILITIES**

See 88-420-15-K.

**88-420-10 MOTORCYCLE AND SCOOTER PARKING**

For any nonresidential use providing 50 or more off-street spaces, a maximum of 3 required off-street parking spaces per 50 vehicle spaces may be reduced in size or otherwise redesigned to accommodate parking for motorcycles and scooters. When provided, motorcycle and scooter parking must be identified by a sign.

## **88-420-11 USE OF REQUIRED PARKING AREAS**

**88-420-11-A.** Required off-street parking areas may be used solely for the temporary parking of licensed motor vehicles in operating condition. Required spaces may not be used for the display of goods for sale or lease or for storage of building materials. In R districts, boats and recreational vehicles must be parked in enclosed garages or buildings, in a rear yard or on a paved driveway, except that boats or recreational vehicles may be parked on a paved driveway between the street and the building line on only two occurrences in any calendar month, with each occurrence no longer than 48 hours in duration. This provision is not intended to prevent parking of such vehicles while being actively loaded or unloaded.

**88-420-11-B.** Required off-street parking spaces are intended to serve residents, tenants, patrons, employees, or guests of the principal use. Off-street parking spaces that are required by this zoning and development code must be maintained for the life of the principal use.

**88-420-11-C.** No motor vehicle repair work of any kind is permitted in a required parking space.

**88-420-11-D.** Off-street parking in residential districts may be used solely for the parking of passenger motor vehicles. No trucks may be parked in residential districts, except for vehicles actively being used for deliveries and trucks that are licensed for a gross vehicle weight of no more than 12,000 pounds and that have a length of no more than 20 feet.

## **88-420-12 LOCATION OF PARKING AREAS**

### **88-420-12-A. GENERAL**

Except as otherwise expressly stated in this zoning and development code, required parking spaces must be located on the same lot as the use to be served by the parking.

### **88-420-12-B. SETBACKS**

#### **1. RESIDENTIAL DISTRICTS**

The following standards apply in all R districts,

- (a) Parking is prohibited in front and street side setbacks, except as otherwise expressly stated, provided that parking spaces for detached houses, zero lot line houses, attached houses, and two-unit houses may be located on an approved driveway in the front setback.
- (b) No more than 40% of the front yard area in an R district may be paved or used for vehicle use. On corner lots, not more than 20% of the street side yard area may be paved or used for vehicle use. All remaining areas of front and street side yards must be landscaped.

#### **2. BUSINESS, COMMERCIAL AND MANUFACTURING DISTRICTS**

- (a) In O, B, and M districts, parking is prohibited in required front and side setback areas and in required landscape areas. See 88-425-05 for information on vehicular use area perimeter landscaping requirements.

(b) Access to off-street parking areas serving nonresidential uses may not come from local residential streets, provided that vehicle access to local residential streets may be approved through the site plan review process in those instances where no other acceptable, safe alternative vehicle access options exist.

**88-420-13 ACCESSIBLE PARKING (FOR PEOPLE WITH DISABILITIES)**

Accessible parking must be provided in accordance with Chapter 52 of the city code.

**88-420-14 PARKING AREA DESIGN**

**88-420-14-A. PARKING SPACE AND AISLE DIMENSIONS**

See city code Chapter 52.

**88-420-14-B. INGRESS/EGRESS**

All nonresidential parking areas must be designed to allow vehicles to enter and exit (to the street) in a forward motion.

**88-420-14-C. LANDSCAPING**

Parking areas must be designed to comply with the parking lot landscaping requirements of Article 88-425.

**88-420-14-D. STORMWATER**

Parking lots must comply with the stormwater management and water quality requirements of the city's *Standards, Specifications and Design Criteria*, including the incorporation of Best Management Practices.

**88-420-14-E. LARGE PARKING AREAS**

Surface parking lots (i.e., outdoor, ground-level parking lots) containing more than 250 parking spaces must:

1. be visually and functionally segmented into smaller parking "pods" to reduce visual and stormwater runoff-related impacts;
2. provide safe, visible access for non-motorized traffic to and through the development site through such techniques as changes in paving surface materials, landscaped pedestrian walkways or pedestrian refuge islands and safety and directional lighting;
3. use traffic calming techniques for pedestrian safety; and
4. provide adequate and easily accessible shopping cart corrals.

**88-420-15 ALTERNATIVE COMPLIANCE PARKING PLANS**

**88-420-15-A. SCOPE**

This section authorizes several alternatives to strict compliance with the standards of this article.

**88-420-15-B. APPLICABILITY**

Applicants seeking approval of an alternative compliance parking plan must secure approval of such plan in accordance with the provisions of this section.

**88-420-15-C. CONTENTS**

Alternative compliance parking plans must be submitted in a form established by the city planning and development director and made available to the public. At a minimum, such plans must detail the type of alternative proposed and the rationale for such a proposal, including any supporting research or documentation required by the director.

**88-420-15-D. REVIEW AND APPROVAL PROCEDURE**

The city planning and development director is authorized to approve, approve with conditions or deny alternative compliance parking plans in accordance with the minor site plan review procedure of Article 88-530.

**88-420-15-E. RECORDING**

The city planning and development director is authorized to require that an attested copy of an approved alternative compliance parking plan be filed with the appropriate county recorder of deeds office whenever the director deems necessary to ensure long-term availability and viability of the alternative parking arrangement. When recording of an agreement is required by the city planning and development director, no building permit, parking lot permit, or occupancy certificate may be issued without proof of recordation.

**88-420-15-F. VIOLATIONS**

Violations of an approved alternative compliance parking plan will be considered violations of this zoning and development code and be subject to the penalty and enforcement provisions of 88-615.

**88-420-15-G. APPROVAL CRITERIA**

The city planning and development director is authorized to approve an alternative compliance parking plan if the applicant demonstrates to the satisfaction of the city planning and development director that the proposed plan:

1. will comply with all applicable requirements of this section;
2. will not adversely affect surrounding neighborhoods;
3. will not adversely affect traffic congestion and circulation; and
4. will have a positive effect on the economic viability or appearance of the project or on the environment.

**88-420-15-H. AUTHORIZED ALTERNATIVES**

The city planning and development director is authorized to approve alternative compliance parking plans for the following:

1. Shared parking (See 88-420-15-I);
2. Off-site parking (See 88-420-15-J);
3. Special facilities for cyclists (See 88-420-15-K);
4. Valet parking (See 88-420-15-L);

5. Transportation demand management programs (See 88-420-15-M);
6. Transit accessibility (See 88-420-15-N); and
7. Pervious parking surfaces (See 88-420-15-O).

## **88-420-15-I. SHARED PARKING**

### **1. DESCRIPTION**

Shared parking represents an arrangement in which two or more nonresidential uses with different peak parking periods (hours of operation) use the same off-street parking spaces to meet their off-street parking requirements.

### **2. AUTHORIZATION AND CRITERIA**

- (a) The city planning and development director is authorized to approve an alternative compliance parking plan allowing shared parking arrangements for nonresidential uses with different hours of operation.
- (b) The city planning and development director may permit up to 100% of the parking required for one use to be supplied by the off-street parking spaces provided for another use if the city planning and development director determines that the various activities will have peak parking demands at different periods of the day or week.
- (c) In order to approve an alternative compliance parking plan for shared parking, the city planning and development director must find, based on competent evidence provided by the applicant, that there is no substantial conflict in the principal operating hours of the uses for which the sharing of parking is proposed.
- (d) A request for approval of a shared parking arrangement must be accompanied by such information determined by the city planning and development director to be necessary to evaluate the peak parking demand characteristics or difference in hours and/or days of operation, including, but not limited to, a description of the uses and their operational characteristics, a site plan, and a parking study prepared by a licensed professional traffic engineer or equivalent qualified professional which justifies the reduction in parking requested.

### **3. LOCATION OF SHARED PARKING FACILITY**

A use for which shared parking is proposed must be located within 1,000 feet walking distance of the shared parking, measured from the entrance of the use to the nearest parking space within the shared parking lot.

### **4. AGREEMENT**

An agreement providing for the shared use of parking areas, executed by the parties involved, must be filed with the city planning and development director in a form approved by the city planning and development director. Shared parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. Agreements must guarantee long-term availability of the parking, commensurate with the use served by the parking. If a shared parking

agreement lapses or is no longer valid, then parking must be provided as otherwise required by this article.

**88-420-15-J. OFF-SITE PARKING**

The city planning and development director may permit all or a portion of the required off-street parking spaces to be located on a remote and separate lot from the lot on which the principal use is located, subject to the standards of this section.

**1. LOCATION**

No off-site parking space may be located more than 1,000 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This distance limitation may be waived by the city planning and development director if adequate assurances are offered that van or shuttle service will be operated between the shared lot and the principal use.

**2. ZONING CLASSIFICATION**

Off-site parking areas are accessory to the principal uses that the parking spaces serve. Off-site parking areas require the same or a more intensive zoning classification than that required for the most intensive of the uses served by the shared parking area unless approved as a special use pursuant to Section 88-525.

**3. OFF-SITE PARKING AGREEMENT**

An agreement providing for the use of off-site parking, executed by the parties involved, must be filed with the city planning and development director, in a form approved by the city planning and development director. Off-site parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. Agreements must guarantee long-term availability of the parking, commensurate with the use served by the parking. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this article.

**88-420-15-K. SPECIAL FACILITIES FOR BICYCLISTS**

The city planning and development director may authorize up to a 15% reduction in the number of required off-street parking spaces for developments or uses that make special provisions to accommodate bicyclists. Examples of eligible accommodations include enclosed bicycle lockers, employee shower facilities and dressing areas for employees. A reduction in required vehicle parking does not entitle the applicant to a reduction in required bicycle parking.

**88-420-15-L. VALET PARKING**

The city planning and development director may authorize valet parking as a means of satisfying up to 100% of otherwise applicable off-street parking ratios. In order to approve an alternative parking plan for valet parking the city planning and development director must determine that the proposal satisfies the approval criteria of 88-420-15-G and that the valet parking will not cause interference with the public use of rights-of-way or imperil public safety.

**88-420-15-M. TRANSPORTATION DEMAND MANAGEMENT PROGRAMS**

The city planning and development director may authorize up to a 50% reduction in the number of required off-street parking spaces for large employers (150 employees or more) that institute and commit to maintain a transportation demand management program, in accordance with the standards of this section.

**1. REQUIRED STUDY**

The applicant must submit a report to the city planning and development director that clearly indicates the types of transportation demand management activities and measures proposed.

**2. TRANSPORTATION MANAGEMENT ACTIVITIES**

The following transportation demand management activities may qualify for a reduction in otherwise required off-street parking ratios:

- (a) The appointment of a transportation coordinator with responsibility for disseminating information on transit, ride-sharing and other alternative transportation options.
- (b) The institution of off-peak work schedules, allowing employees to arrive at times other than the peak morning commute period. The peak morning commute period is defined as 7:00–9:00 a.m.
- (c) The provision of specially marked spaces for each registered car pool and vanpool vehicles.
- (d) The provision of cash or in-kind financial incentives for employees commuting by car pool, vanpool and public transit.

**88-420-15-N. TRANSIT ACCESSIBILITY**

The city planning and development director may authorize up to a 25% reduction in office parking ratios for uses located within 500 feet of a transit stop with 30-minute or more frequent service during the hours of 7:00 a.m. to 9:00 a.m. This reduction may not be applied in conjunction with the special rapid transit provisions of 88-420-04-J.

**88-420-15-O. PERVIOUS PARKING SURFACES**

The city planning and development director may authorize a portion of required off-street parking spaces to be provided on pervious surfaces if the city planning and development director finds that such spaces will be used only intermittently, either for special events or for seasonal peak parking demands or overflows in patronage of the principal use or uses.

1. The decision of the city planning and development director must indicate what number or percentage of required parking spaces may be provided on pervious surfaces.
2. The city planning and development director is authorized to determine acceptable pervious surfaces.
3. Parking spaces, aisles, etc. must be marked by flags, biodegradable dyes or paints, or some other method that does not kill grass or plants.
4. Pervious parking areas must be adequately drained.

**88-420-16 LOADING****88-420-16-A.RATIOS**

Off-street loading spaces must be provided in accordance with the following schedule:

<b>Use Type (Size)</b>	<b>Loading Required</b>	<b>Spaces</b>
<b>Public/Civic, Commercial and Industrial Uses</b>		
Under 20,000 square feet.....	None	
20,000–49,999 square feet.....	1	
50,000+.....	2	
.....		
<b>Household Living Uses</b>		
Under 50 units.....	None	
50+ units.....	1	

**88-420-16-B.DESIGN AND LOCATION****1. PLANS**

Plans for location, design and layout of all loading spaces must be indicated on required site plans.

**2. SPACE SIZE**

Off-street loading spaces, excluding maneuvering areas, must be at least 10 feet wide and 25 feet long unless off-street loading will involve the use of semi-tractor trailer combinations or other vehicles in excess of 25 feet in length, in which case the minimum size of a space is 12 feet by 60 feet.

**3. SURFACING AND MAINTENANCE**

All off-street loading areas must be paved.

**88-425 LANDSCAPING AND SCREENING****88-425-01 SCOPE AND PURPOSE**

The regulations of this article establish minimum requirements for street tree planting, parking lot/vehicular use area landscaping (perimeters and interior areas) and screening of outdoor storage and loading areas. The regulations are intended to advance the general purposes of 88-10-05 and specifically to:

**88-425-01-A.**enhance the city's image and appearance;

**88-425-01-B.** protect and improve environmental conditions by providing shade, air purification, oxygen regeneration, filtering of stormwater runoff, and abatement of noise, glare and heat; and

**88-425-01-C.** help mitigate possible adverse impacts of higher intensity land uses located adjacent to lower intensity land uses.

**88-425-02 RELATIONSHIP TO STORMWATER MANAGEMENT**

Required landscape areas may be used for stormwater management in accordance with the city's *Standards, Specifications and Design Criteria* and the city's adopted *Manual of Best Management Practices for Stormwater Quality*.

**88-425-03 STREET TREES**

**88-425-03-A.APPLICABILITY**

The street tree planting requirements of this section apply to all of the following, unless expressly exempted:

1. construction of any principal building; and
2. any addition to or enlargement of an existing principal building when the addition or enlargement exceeds 1,500 square feet of gross floor area.

**88-425-03-B.EXEMPTIONS**

1. Street trees are not required to be installed or maintained in the following locations:
  - (a) above an area containing soil of a depth of less than 6 feet, not including sidewalk pavement; and
  - (b) any areas determined by the director of parks and recreation to be unsuitable or unsafe for street trees.
2. When street trees are not required pursuant to 88-425-03-B.1, the director of parks and recreation may require alternative landscape treatments, in accordance with 88-425-12.

**88-425-03-C.TREE PLANTING REQUIREMENTS**

**1. NUMBER**

At least one street tree is required for each 30 feet of street frontage.

**2. LOCATION**

Required street trees must be installed within the street right-of-way or within 10 feet of the street right-of-way. If street trees are to be located outside of the right-of-way, the city is authorized to require the establishment of a 15-foot landscape maintenance easement.

**3. SPACING**

Street trees need not be regularly spaced. The director of parks and recreation is authorized to determine the final location of street trees, based on site factors such

as the location of utilities and driveways, intersection visibility requirements and other factors.

4. **SIZE**

Street trees installed to satisfy the requirements of this section must comply with the minimum size requirements of 88-425-09-B.2 except that on lots abutting parkways and boulevards, street trees must have a minimum diameter at breast height of 3.5 inches.

## **88-425-04 GENERAL LANDSCAPING REQUIREMENTS**

### **88-425-04-A.SETBACKS AND OPEN SPACE**

The setback and open space areas required by this zoning and development code must be landscaped, except where they are:

1. occupied by approved structures or paving;
2. screened from public view; or
3. retained in their natural (vegetated) state.

### **88-425-04-B. UNUSED AREAS**

Any area of a site not intended for a specific use, including a commercial pad site intended for future development, must be landscaped unless retained in its natural state.

### **88-425-04-C.TREES**

Trees must be planted within general landscaping areas on sites used or zoned for public, civic, office, business or commercial use. At least one tree must be provided per 5,000 square feet of principal building coverage (building footprint). The city planning and development director is authorized to reduce general tree planting requirements of this section when it is determined that the area available for planting will not accommodate the number of trees otherwise required by this subsection.

## **88-425-05 PERIMETER LANDSCAPING OF VEHICULAR USE AREAS**

### **88-425-05-A.APPLICABILITY**

Unless otherwise expressly stated, the perimeter landscaping standards of this section apply to all of the following in all zoning districts:

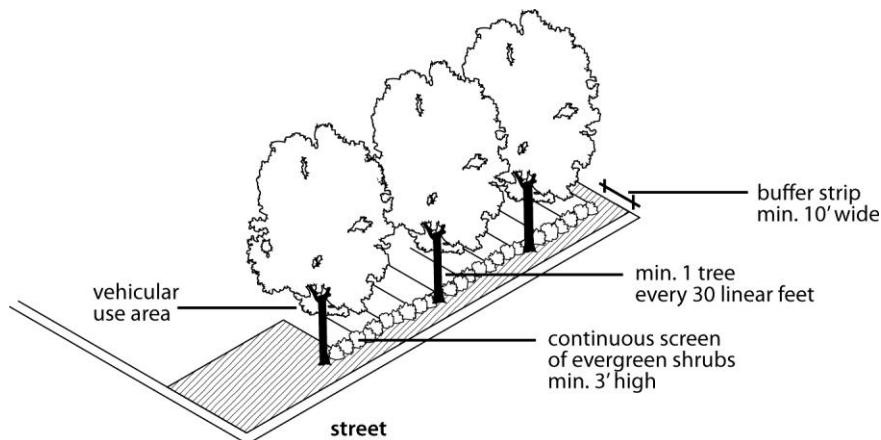
1. the construction or installation of new vehicular use areas;
2. the repair, rehabilitation or expansion of existing vehicular use areas, if such repair, rehabilitation or expansion would increase the area of the vehicular use area by more than 20%;
3. existing vehicular use areas that are accessory to an existing principal building if the building or any portion of the building is expanded or enlarged and the expansion increases the existing floor area by more than 50% or 5,000 square feet, whichever is less; and

4. the excavation and reconstruction of existing vehicular use areas if such excavation and reconstruction involves the removal of 50% or more of the asphalt, concrete or other pavement devoted to vehicular use.

#### **88-425-05-B. ADJACENT TO STREETS**

When a vehicular use area is located adjacent to a public right-of-way, perimeter landscaping must be provided to provide physical and visual separation between the vehicular use area and the right-of-way. This requirement applies only when there are no intervening buildings between the right-of-way and the vehicular use area.

1. Perimeter landscaping adjacent to street rights-of-way must be provided in the form of a perimeter landscape strip located between the vehicular use area and the street right-of-way.
2. The landscape buffer strip must be at least 10 feet in width and be planted with at least one tree per 30 linear feet of landscape strip and enough evergreen shrubs to form a continuous visual screen at least 3 feet in height after the first growing season.

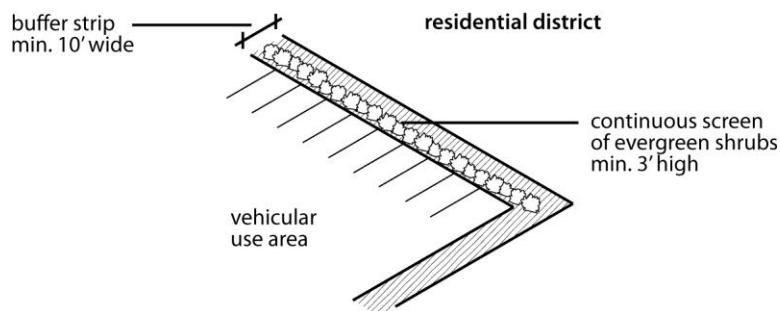


3. Ground cover plants must cover the remainder of the required landscape strip.
4. A masonry wall or berm may be substituted for shrubs, but trees and ground cover are still required.
5. Shrubs and walls must be located on the interior of the perimeter landscape strips; trees must be on the outside (street side) of the shrubs or wall.
6. On sites containing more than 250 surface (outdoor, at-grade) parking spaces, when a vehicular use area is adjacent to a public right-of-way, required perimeter landscaping must be provided in the form of
  - (a) a berm with a minimum height of 3 feet and a maximum slope of 3:1, planted with at least 3 trees and 25 shrubs per 100 feet of berm length; or
  - (b) a landscape buffer strip with a minimum width of 25 feet, planted with at least 6 trees and 35 shrubs per 100 feet of buffer length.

**88-425-05-C. ADJACENT TO RESIDENTIAL ZONING DISTRICTS**

When a vehicular use area is adjacent to a residential zoning district, perimeter landscaping must be provided to provide physical and visual separation between the vehicular use area and the residential zoning district.

1. Perimeter landscaping adjacent to residential zoning districts must be provided in the form of a perimeter landscape strip or berm located between the vehicular use area and the residential zoning district.
2. The landscape buffer strip must be at least 10 feet in width and be planted with enough evergreen shrubs to form a continuous visual screen at least 3 feet in height after the first growing season.



3. Ground cover plants must cover the remainder of the required landscape strip.
4. A masonry wall or opaque wood fence with a minimum height of 5 feet may be substituted for shrubs, but ground cover is still required within the landscape buffer strip.
5. On sites containing more than 250 surface (outdoor, at-grade) parking spaces, the perimeter landscape buffer requirements of 88-425-05-B.6 apply.

**88-425-06 INTERIOR LANDSCAPING OF PARKING LOTS****88-425-06-A. APPLICABILITY**

Unless otherwise expressly stated, the interior landscaping standards of this section apply to all of the following in all zoning districts:

1. the construction or installation of any new parking lot containing 25 or more parking spaces in the Crossroads area or 10 or more parking spaces outside the Crossroads area;
2. the expansion of existing parking lots, if the expansion would create 25 or more parking spaces in the Crossroads area or 10 or more new parking spaces outside the Crossroads area, in which case the requirements of this section apply only to the expanded area; and
3. the excavation and reconstruction of existing parking lots containing 25 or more parking spaces in the Crossroads area or 10 or more parking spaces outside the Crossroads area if such excavation and reconstruction involves the removal of 50% or more of the asphalt, concrete or other parking lot surface material.

**88-425-06-B. MINIMUM INTERIOR LANDSCAPE AREA**

At least 35 square feet of interior landscape area must be provided for each parking space. If compliance with this standard would result in the loss of existing required parking spaces, the amount of parking required is automatically reduced by the amount needed to accommodate the required interior landscaping.

**88-425-06-C. RELATIONSHIP TO PERIMETER LANDSCAPING STANDARDS**

Landscape area provided to satisfy the perimeter landscape standards of 88-425-05 may not be counted toward satisfying the interior landscaping standards of this section.

**88-425-06-D. LOCATION**

Required interior landscaping must be designed to enhance the appearance and safety of the parking lot area. Landscaping must be reasonably dispersed throughout parking area.

**88-425-06-E. PLANT MATERIALS**

**1. TREES**

One tree is required per 5 parking spaces.

**2. SHRUBS**

One shrub is required per parking space.

**3. GROUND COVER**

Ground cover plants must cover all interior landscape areas.

**88-425-07 SCREENING OF PARKING GARAGES**

Parking floors within multi-story parking garages must be screened or concealed by one or more of the following methods:

**88-425-07-A. GROUND-FLOOR RETAIL/OFFICE**

When a parking garage is proposed for a street where the predominant use is retail or office, the garage's ground-level street frontage (except for driveways and pedestrian entrances) must be improved with retail, office or other active use types, as permitted by the subject zoning district. Ground-floor space improved with retail, office or other active uses must include display windows, lighting, architectural treatments or landscaping that enhances the pedestrian environment.

**88-425-07-B. GROUND-FLOOR RESIDENTIAL**

Where permitted, ground- floor residential use may be used to conceal a parking garage.

**88-425-07-C. LANDSCAPING**

1. Landscaping may be required for all parking garages (except fully enclosed garages) at ground-level or on each street façade above ground- level in the form of perimeter planters within openings, upper-level landscaped setbacks and/or the incorporation of hanging baskets, flower boxes or planting trellises.
2. A parking garage that does not incorporate ground-floor nonresidential or residential use or is not otherwise screened or concealed at street frontages on the ground level, must provide a densely planted landscape perimeter that is a

minimum of 10 feet in depth for any garage of less than 5 levels and 20 feet in depth for any garage with 5 levels or more.

**88-425-07-D. UPPER-LEVEL SCREENING**

On upper levels of a parking garage, the parking may be screened by business or residential uses, glazing, metal grillwork, louvers and other architectural treatments.

**88-425-08 SCREENING OF CONTAINERS AND MECHANICAL/UTILITY EQUIPMENT**

**88-425-08-A. DUMPSTERS**

Trash containers, dumpsters, trash compactors, and recycling bins associated with multiplex, multi-unit residential and nonresidential uses must be screened from public view on all sides with a solid fence, wall, or gate constructed of cedar, redwood, masonry or other similar building material reflecting the overall design of the site, and be appropriately landscaped.

**88-425-08-B. MECHANICAL EQUIPMENT AND UTILITY CABINETS**

1. Above-ground utility cabinets that serve multiple properties (including maintenance and access areas) must be located in the public right-of-way or within utility easements. When located in easements, such cabinets must be located as far as practicable from the street right-of-way and in locations that are least visible from rights-of-way. All locations must comply with intersection sight distance requirements and comply with required separation distances (between cabinets and other structures).
2. Above-ground utility cabinets that are 30 or more inches in height or width and visible from the right-of-way must be screened from public view with landscaping or with an architectural treatment compatible with the building design and character of the surrounding area. No certificate of occupancy will be issued until required screening is in place.
3. If above-ground utility cabinets are installed in an existing neighborhood (i.e., where principal buildings already exist on the subject lot), the utility provider is responsible for installation of required screening. Requirements for screening apply to new cabinets, as well as replacement of existing cabinets. The city planning and development director is authorized to approve alternative screening requirements or to waive screening requirements when soil conditions or other site constraints prevent strict compliance with otherwise applicable screening standards.
4. Above-ground utility cabinets that are 30 or more inches in height or width and visible from the right-of-way must be oriented so that cabinet doors face away from the street right-of-way to the maximum practical extent. This requirement is intended to promote screening on the sides of the cabinet most likely to be visible from the right-of-way.
5. Other ground-mounted or building-mounted mechanical equipment accessory to nonresidential buildings and nonresidential development must be screened from

public view with landscaping or with an architectural treatment compatible with the building design and character of the surrounding area.

6. Underground placement of mechanical equipment and utility cabinets must be considered whenever technologically and economically feasible.

**88-425-08-C.** All buildings or building additions in office, commercial or industrial districts must provide a solid screen fence or wall not less than 6 feet in height along all rear and side property lines that abut R zoning districts, except that such screening may not extend in front of the building line or in front of abutting dwellings. Such screening is not required when similar screening exists on the abutting residential property.

## **88-425-09 PLANT MATERIAL**

### **88-425-09-A. GENERAL**

#### **1. APPLICABILITY**

The plant material standards of this section apply to all landscaping and plant materials used to satisfy the landscaping and screening requirements of this zoning and development code.

#### **2. PLANT SELECTION**

Plants used to satisfy the requirements of this zoning and development code must meet or exceed the plant quality standards of American Association of Nurserymen and the Kansas City Nursery and Landscape Association. Plants used to satisfy the requirements of this article must be native or naturalized species.

#### **3. ARTIFICIAL PLANTS**

No artificial plants or vegetation may be used to satisfy the landscaping and screening requirements of this zoning and development code.

### **88-425-09-B. TREES**

#### **1. TYPES**

Unless otherwise expressly stated, required trees may be broadleaf (deciduous) or conifers (evergreen).

#### **2. SIZE**

Trees provided to satisfy the requirements of this zoning and development code must comply with the following minimum size requirements:

- (a) broadleaf trees must have a minimum diameter at breast height (DBH) of 2.5 inches; and
- (b) evergreen trees must have a minimum planted height of 5 feet.

#### **3. SPECIES**

If more than 8 trees are required, no more than 40% may be of a single species. If more than 25 trees are required, no more than 25% may be of a single species. This requirement applies to trees being planted, not to existing trees.

**88-425-09-C.SHRUBS**

1. All shrubs must have a minimum planted height of 2 feet and a minimum height of 3 feet after the second full growing season.
2. Broadleaf shrubs must have a minimum container size of 2 gallons.
3. Evergreens must have a minimum container size of 5 gallons.
4. Shrubs may also be balled and burlapped.
5. If more than 25 shrubs are required, no more than 75% may be of a single species.

**88-425-09-D.GROUND COVER**

1. All required landscape areas that are not planted with trees or shrubs must be covered with ground cover plants, which may include grasses. Mulch must be confined to areas underneath trees and shrubs and is not an allowed substitute for ground cover.
2. Ground cover plants other than grasses must have a minimum 4-inch pot size. Area planted in ground cover plants other than grasses must be planted at distances appropriate for the species and at a density that will achieve complete coverage after the second full growing season.

**88-425-09-E.FENCES AND WALLS**

1. **WALLS**

Walls must be constructed of brick, stone or other durable masonry material approved by the city planning and development director.

2. **FENCES**

Fences must be durable and constructed of wood, decorative rigid vinyl (polyvinyl chloride), metal or wrought iron. Fence posts must be structurally stable. The finished side of the fence must face the adjacent property or street. Chain-link fencing may not be used to satisfy landscaping and screening requirements.

**88-425-09-F. PROHIBITED PLANTS (RESERVED)**

**88-425-09-G. EXISTING TREES AND VEGETATION**

1. Existing vegetation may be used to satisfy the landscaping and screening requirements of this zoning and development code if protected and maintained during site development and construction phases of work and if such trees or plants are not otherwise prohibited.
2. Preserved trees will be credited toward satisfying the tree planting requirements of this zoning and development code if they meet the minimum size requirements of 88-425-09-B.2. Trees up to 6 inches in diameter at breast height will be credited on a 1:1 basis. Trees larger than 6 inches, up to 12 inches in diameter at breast height will be credited at a ratio of 2:1. Trees that are more than 12 inches in diameter at breast height will be credited at a ratio of 3:1 to encourage the preservation of existing mature trees.

**88-425-10 INSTALLATION AND MAINTENANCE**

**88-425-10-A. INSTALLATION**

**1. GENERAL**

- (a) All landscaping must be installed according to sound nursery practices in a manner designed to encourage vigorous growth.
- (b) All trees must be staked and include at least 2 inches of organic mulch over the planting area.
- (c) Landscape plant material suitable for planting must be balled and burlapped or container grown. In all cases, a planting area that is at least twice the diameter of the root system or the container should be prepared.

**2. IRRIGATION**

All required landscaped areas must provide irrigation in accordance with one of the following 3 options:

- (a) a permanent, built-in irrigation system with an automatic controller;
- (b) a temporary irrigation system designed and certified by a licensed landscape architect as part of the landscape plan, which provides sufficient water to ensure that the plants will become established; or
- (c) irrigation by hand.

**3. INSPECTION**

An inspection will be required one year after final inspection to ensure that the landscaping has become established. An inspection fee, paid at the time of permit application, will be required.

**4. PROTECTION**

All required landscaped areas, particularly trees and shrubs, must be protected from potential damage by adjacent uses and development, including parking and storage areas.

**5. TIMING OF INSTALLATION**

All landscaping, including trees, plant material and structural elements, must be in place and healthy prior to issuance of a final occupancy certificate. The city planning and development director may authorize issuance of a temporary occupancy certificate before installation of required landscaping when seasonal conditions render installation impractical.

- (a) In order to be eligible for a temporary occupancy certificate under this provision, the applicant must provide the city planning and development director with a bona fide executed contract with a landscape contractor or nursery.
- (b) The contract must provide the city with authority to direct completion of the landscaping and installation work.

- (c) Funds to cover the cost of the contract must be placed in escrow or provided as an city-approved financial guarantee that runs to the city.
- (d) Installation may not be delayed more than 120 days after occupancy.

**88-425-10-B. MAINTENANCE**

1. The property owner or successors in interest are jointly and severally responsible proper maintenance of landscaped areas in accordance with the approved landscape plan.
2. Landscaping must be continuously maintained including necessary watering, weeding, pruning, pest control and replacement of dead or diseased plant material. Any replacement of dead or diseased plant material must comply with the approved landscape plan and must occur as soon as practical, no later than the next planting season.
3. Failure to comply with an approved landscaping plan constitutes a violation of this zoning and development code and is subject to penalties and enforcement under 88-615.

**88-425-11 LANDSCAPE PLANS**

Landscape plans must accompany all required site plans and similar development plans. All landscaping plans must include the following information:

**88-425-11-A.** North point and scale.

**88-425-11-B.** Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.

**88-425-11-C.** The location, size and surface of materials of all structures and parking areas.

**88-425-11-D.** The location, size and type of all above-ground and underground utilities and structures with proper notation, where appropriate, regarding any safety hazards to avoid during installation of landscaping.

**88-425-11-E.** The location, size, type and quantity of all proposed landscape materials, along with common and botanical names of all plant species. The size, grading and condition must be specified according to American Association of Nurserymen standards.

**88-425-11-F.** The location, size and common name of all existing plant materials to be retained on the site.

**88-425-11-G.** Mature sizes of plant materials must be drawn to scale and called out on the plan by a common name or appropriate key.

**88-425-11-H.** Location of hose connections and other irrigation sources.

**88-425-11-I.** The location of all trees, 12-inch caliper or larger, measured at 4.5 feet above ground level, that are proposed for removal.

**88-425-11-J.** All other landscaping and screening to be provided.

**88-425-12 ADMINISTRATIVE ADJUSTMENTS FOR ALTERNATIVE COMPLIANCE**

**88-425-12-A.** The city planning and development director is authorized to approve an administrative adjustment allowing for alternative compliance with the landscaping and screening standards of this article.

**88-425-12-B.** Alternative compliance may be approved when the city planning and development director determines that the proposed alternative would be at least as effective as strict compliance in meeting the overall intent of the standards.

**88-425-12-C.** Alternative compliance may also be approved when the city planning and development director determines that:

1. strict application of the provisions would deprive the applicant of the reasonable use of the land or would otherwise impose an unreasonable hardship upon the applicant;
2. conditions and circumstances upon which the waiver or modification is sought are not caused by the applicant; and
3. that alternative landscape treatments will be provided to off-set the waiver or reduction in otherwise applicable standards.

**88-425-12-D.** The city planning and development director is expressly authorized to approve such alternative landscape treatments as:

1. landscaped earth berms;
2. raised planters;
3. hanging baskets;
4. flower boxes;
5. planting trellises;
6. roof-top gardens;
7. perimeter plantings on roof-tops, decks or balconies;
8. pedestrian lighting;
9. flag or banner poles;
10. benches and seating areas;
11. vine-covered fences, walls or trellises;
12. brick walls;
13. public art installations; and
14. additional landscaping and tree planting elsewhere on the site that will be visible from public right-of-way.

## **88-430 OUTDOOR LIGHTING**

### **88-430-01 PURPOSE**

The outdoor lighting standards of this article are intended to protect the public health and general welfare by controlling the adverse impacts of glare and light trespass associated with poorly shielded or inappropriately directed lighting fixtures.

### **88-430-02 APPLICABILITY**

Unless otherwise expressly exempted, the regulations of this article apply to all uses.

### **88-430-03 EXEMPTIONS**

The following are expressly exempt from the outdoor lighting regulations of this article:

**88-430-03-A.** airport runway and aviation safety lights required by the FAA (e.g., warning lights on radio, communication and navigation towers);

**88-430-03-B.** outdoor lights on lots occupied by residential buildings containing fewer than 4 dwelling units;

**88-430-03-C.** temporary holiday light displays;

**88-430-03-D.** outdoor light fixtures producing light directly by the combustion of fossil fuels, such as, kerosene lanterns or gas lamps;

**88-430-03-E.** city street lighting system, provided that city street lights should comply with the fixture and shielding standards of 88-430-05 wherever practical;

**88-430-03-F.** luminous tube lighting;

**88-430-03-G.** lighting of official government flags;

**88-430-03-H.** lights associated with outdoor recreation uses, which are subject only to the standards of 88-430-07; and

**88-430-03-I.** construction and emergency lighting used by construction workers or police, firefighting, or medical personnel, provided the lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency requiring the lighting.

### **88-430-04 GENERAL REGULATIONS AND STANDARDS**

**88-430-04-A.** Flashing, revolving, or intermittent exterior lighting visible from any property line or street is prohibited.

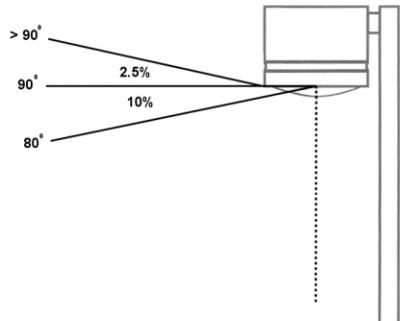
**88-430-04-B.** High-intensity light beams, such as outdoor searchlights and lasers, are prohibited unless expressly approved for temporary use in accordance with the special use procedures of Article 88-525.

### **88-430-05 FIXTURES AND SHIELDING**

**88-430-05-A.** All outdoor light sources that produce more than 4,050 lumens must be at least partially shielded. For the purposes of this provision, "partially-shielded" or "semi-cutoff" means an outdoor light fixture shielded so that no more than 2.5% of the light

emitted directly from the lamp or indirectly from the fixture is projected at angles above a horizontal plane extending from the bottom of the fixture.

### **Partially Shielded, Semi-Cutoff Fixture**



**88-430-05-B.** Light fixtures mounted under gas station canopies must be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface (ceiling) of the canopy.

### **88-430-05-C. SPILLOVER LIGHT**

Spillover light onto R-zoned property or public rights-of-way may not exceed 2 lux, measured at grade along the property line.

### **88-430-05-D. GLARE**

All outdoor lighting must be reflected away from residences and streets.

## **88-430-06 EXTERIOR LIGHTING PLAN**

### **88-430-06-A. WHEN REQUIRED**

An outdoor lighting plan must be submitted as part of any special use or site plan application. The lighting plan must be reviewed to determine whether the proposed outdoor lighting complies with the standards of this article.

### **88-430-06-B. INFORMATION REQUIRED**

Outdoor lighting plans must include a photometric study and data on the types of lighting fixtures to be used. The photometric plan must include all of the following unless the city planning and development director determines that a thorough review and determination is possible without such information:

1. scale drawing of the site with all outdoor lighting fixture locations identified;
2. fixture specifications indicating the type of fixture, height, shielding, luminaire type and wattage;
3. lamp type and size;
4. a point-by-point illumination array for off-street parking areas and other vehicular use areas and along the property lines. The point-by-point array must indicate site illumination at (minimum) 10-foot intervals along the property line and at 20-foot intervals on the interior of the site.

## **88-430-07 ALTERNATIVE COMPLIANCE AND SPECIAL STANDARDS FOR OUTDOOR RECREATION USES**

Because of their unique requirements for nighttime visibility and their limited hours of operation, the city planning and development director is authorized to permit alternative means of compliance for outdoor recreation uses. In approving an alternative compliance lighting plan, the city planning and development director is authorized to impose reasonable conditions to help mitigate potential adverse impacts. Such conditions include limiting pole/fixture heights; limiting hours of operation; requiring special setbacks, landscaping, screening, or cutoff fixtures; and other techniques.

## **88-435 OUTDOOR STORAGE AND DISPLAY**

### **88-435-01 APPLICABILITY**

The standards of this article do not apply to the sales of food, flowers, newspapers, periodicals and similar materials that are not left outdoors overnight. Additionally, these standards do not apply to approved temporary uses.

### **88-435-02 OUTDOOR DISPLAY**

#### **88-435-02-A. CLASS A OUTDOOR DISPLAY**

##### **1. DEFINED**

Class A outdoor displays are areas outside of a completely enclosed building or structure used to display goods for sale to the general public as part of and subordinate to retail sales or similar business establishment. This includes but is not limited to garden supplies, building supplies and plant materials.

##### **2. REGULATED**

Class A outdoor display areas may be allowed in association with any retail or similar business establishment, provided they comply with the following standards:

- (a) Outdoor display areas must be located outside of drive aisles, fire lanes and parking spaces;
- (b) Outdoor display areas are prohibited in any required setback or within the first 50% of the yard area as measured between the right-of-way and the building line;
- (c) Outdoor display areas may not be closer than 5 feet to any public building entrance;
- (d) Individual items attached to a building wall surface may not exceed 8 feet in height above grade;
- (e) Stacked items may not exceed a total of 7 feet in height above grade;
- (f) Outdoor display areas may not exceed 15% of the gross floor area of the principal building on the lot.

**3. SITE PLAN REVIEW**

Review for compliance with these standards must occur at the time of site plan review for the principal use. Otherwise minor site plan approval is required prior to establishment of an outdoor display area.

**88-435-02-B. CLASS B OUTDOOR DISPLAY**

**1. DEFINED**

Class B outdoor displays are areas where the majority of the retail space is outdoors and items are for sale to the general public. This includes but is not limited to garden nurseries, vehicles sales and services, manufactured home sales, recreational and play equipment sales, and other similar uses.

**2. REGULATED**

Class B outdoor display areas may be allowed in B3, B4 and M zoning districts provided they comply with the following standards:

- (a) Outdoor display areas must be located outside of drive aisles, fire lanes, and parking spaces;
- (b) Outdoor display is prohibited in any required setback or within 20 feet of any property or right-of-way line, whichever is greater; and
- (c) Outdoor display areas must be fully screened from ground level view of adjacent R- zoned properties.

**88-435-03 OUTDOOR STORAGE**

**88-435-03-A.DEFINED**

Outdoor storage is the storage of any item outside of an enclosed building or structure and that is not accessible to the general public. This includes but is not limited to garden supplies, building supplies, plants, materials stored in crates, boxes, or shipping containers; lumber yards; pipe; wrecking, junk and salvage yards; vehicle storage yards; and other similar uses.

**88-435-03-B. REGULATIONS**

Outdoor storage may be allowed in B4 and M zoning districts, provided it complies with the following standards:

1. Outdoor storage areas must be located outside of drive aisles, fire lanes, parking spaces, and any required setback;
2. In the B4 district outdoor storage is prohibited in any required setback or within 20 feet of any property or right-of-way line, whichever is greater;
3. In the M districts, outdoor storage is prohibited in any required setback or within 10 feet of any property or right-of-way line, whichever is greater;
4. In the B4, M1, and M2 zoning districts, outdoor storage areas must be fully screened from ground level view from adjacent properties and public streets;

5. In the B4 district, outdoor storage may not cover an area exceeding 50% of the lot area and may not be located between the building line and any public right-of-way.

## **88-440 TRAFFIC IMPACT STUDIES**

### **88-440-01 PURPOSE**

The regulations of this article are intended to help ensure that the traffic and transportation impacts of proposed developments are identified, evaluated, and mitigated as necessary. The purpose of a transportation impact study is to assess the effects that development will have on traffic conditions, transit users, pedestrians, bicyclists, and neighborhood livability.

### **88-440-02 WHEN REQUIRED**

**88-440-02-A.** A traffic impact study is required at the time of application for approval of any special use permit, preliminary subdivision plat, or other similar site-specific development plan if:

1. the proposed development, or phases of development, or contiguous tracts under the same ownership, would accommodate or could be expected to generate 100 or more added vehicle trips to or from the site during the peak traffic hour (based on the proposed development or the adjacent roads and intersections); or
2. the proposed development, or phases of development, or contiguous tracts under the same ownership, would accommodate or could be expected to generate 1,000 or more added vehicle trips to or from the site during a 24-hour period (based on the proposed development or the adjacent roads and intersections).

**88-440-02-B.** In calculating the number of added vehicle trips expected to be generated, trip generation rates must be obtained from the most recent editions of Trip Generation and Trip Generation Handbook, published by the Institute of Transportation Engineers (ITE). Only “new” vehicle trips will be counted; no pass-by or internal trip capture will be used in calculating “added vehicle trips.”

**88-440-02-C.** The city planning and development director may waive the requirement for a traffic impact study, in whole or in part, when the applicant shows that the proposed development’s impact on adjacent roads intersections, pedestrian, bicycle and transit facilities will be minimal and insignificant, or will be no greater than those projected by a traffic impact study prepared and submitted within the past 2 years for the same site under the same or similar background conditions. The city planning and development director must document the reasons for any waiver.

### **88-440-03 LEVEL OF SERVICE STANDARDS**

**88-440-03-A.** The traffic impact study must demonstrate that the proposed development would not cause build-out-year, peak-hour levels of service on any arterial or collector road or intersection within the study area to fall below Level of Service (LOS) “D,” as defined by the latest edition of the highway capacity manual, or, where the existing level of service is already LOS “E” that the proposed development would not cause the LOS to fall to the next lower letter grade.

**88-440-03-B.** If the road segment or intersection is already LOS “F,” the traffic impact study must demonstrate that the proposed development, with any proposed improvements, would not cause build-out year peak-hour operation to degrade more than 5% of the total delay on any intersection approach.

**88-440-03-C.** To the extent that application proposes specific access points, the study must also demonstrate that the proposed development would avoid unsafe conditions on adjacent roads.

**88-440-03-D.** The traffic impact study must include an assessment of the proposed development’s impacts on pedestrian level of service as established in the *Kansas City Walkability Plan*. This assessment must be in the form of a pedestrian impact study, which must be prepared in accordance with the methodology contained in “Appendix C” of the *Walkability Plan*. The pedestrian impact study must demonstrate that the proposed development meets the minimum level of service standards by measurement and area type.

**88-440-03-E.** The traffic impact study must also address on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on immediate and adjacent neighborhoods; and the convenience and safety effects on all modes of transportation.

**88-440-03-F.** Failure to meet these standards may serve as a basis for denying the application, or for conditioning approval of the application or application on provision of improvements or other mitigation measures needed to correct deficiencies due to the proposed development’s impacts.

#### **88-440-04 STUDY AREA**

The traffic impact study must address the proposed development’s traffic impacts on at least:

**88-440-04-A.** Roads, sidewalks, bicycle routes, transit facilities and intersections within the development site, as designated by planning and development department staff;

**88-440-04-B.** road segments, sidewalks, bicycle routes, transit facilities and intersections abutting the development site as designated by planning and development department staff; and

**88-440-04-C.** off-site road segments and intersections where traffic from the proposed development is expected to account for at least 10% of the road’s or intersection approach leg’s average daily traffic

#### **88-440-05 QUALIFICATIONS**

Traffic impact studies must be prepared by a licensed professional engineer.

#### **88-440-06 STUDY CONTENTS**

Traffic impact studies must include charts, graphics, and narrative presenting at least the following information:

**88-440-06-A.** a description of existing land uses and development intensities in the study area, the location and characteristics of roads, sidewalks, bicycle routes, transit facilities and intersections in the study area, and the existing traffic volumes and conditions (including levels of service) of those facilities;

**88-440-06-B.** a description of the location and traffic-related characteristics (land use, intensity, expected date of full build-out and occupancy, vehicular access points, pedestrian connections, bicycle routes and transit facilities and characteristics, etc.) of the proposed development and other developments in the study area that are under construction, approved, or pending approval, as well as roadway and other transportation facilities and improvements in the study area that are under construction, programmed, or planned;

**88-440-06-C.** projections of future background traffic (existing vehicular, pedestrian, bicycle and transit volumes forecasted to build-out year levels based on agreed upon traffic growth rate) plus traffic generated by other development in the study area that is under construction, approved, or pending approval, future site traffic and total future traffic (the sum of future background traffic and future site traffic);

**88-440-06-D.** future background and site traffic projections must be made for the peak hours (as identified by planning and development department staff) of the adjacent road segments and intersections and for the development's expected full build-out and occupancy date, and must include trip generation, trip distribution (using pre-approved distribution by planning and development department staff), and traffic assignment estimates;

**88-440-06-E.** studies of the proposed development's incremental impacts on:

1. road capacity during peak hours at all site access points and at road segments and intersections in the study area (including determination of the level of service for the road segments and intersections, queuing vs. existing/proposed storage);
2. the need for signalization of intersections in the study area;
3. pedestrian, bicycle and transit-user safety and convenience; and
4. existing or potential high accident areas (as referenced in the adopted transportation plan or determined by planning and development department staff);

**88-440-06-F.** a qualitative study/review of sight distance at access points, when required by planning and development department staff;

**88-440-06-G.** a description of the location, nature, and extent of site access and transportation improvements and other measures recommended to mitigate any failure to meet traffic operation standards due to the proposed development's traffic impacts, including the expected effectiveness of each mitigation measure in addressing deficiencies, the feasibility of implementing the measures, suggested allocation of responsibility for funding and implementing the measures, the measures' relationship to planned public transportation improvements, and a suggested time schedule for the implementation of the measures;

**88-440-06-H.** résumés of the preparers of the study, demonstrating specific education, training, and professional experience in traffic-related studies and, if the study involves roadway or traffic signal design, traffic engineering; and

**88-440-06-I.** identification of all assumptions and data sources used in its projections, studies, and recommendations.

## **88-445 SIGNS**

### **88-445-01 INTENT AND APPLICABILITY**

#### **88-445-01-A.INTENT**

The intent of this chapter is to provide an orderly, effective and reasonable control of off-premises and on-premises signs, thereby halting indiscriminate sign proliferation and enhancing the visual environment of the city and to achieve balance among the following different and at times, competing goals:

1. to encourage the effective use of signs as a means of communication for businesses, organizations and individuals in Kansas City;
2. to provide for adequate way-finding in the community, thus reducing traffic congestion;
3. to provide adequate means of business identification, advertising and communication;
4. to prohibit signs of such excessive size and number that they obscure one another to the detriment of the economic and social well-being of the city;
5. to protect the safety and welfare of the public by minimizing hazards to vehicles and pedestrians;
6. to preserve property values by preventing unsightly and chaotic signage that has a blighting influence on the city;
7. To differentiate among those signs that, because of their location, lighting, movement or other characteristics may distract drivers on public streets and those that may provide information in a safer manner;
8. to minimize the possible adverse effects of signs on nearby public and private property;
9. to implement the goals of the comprehensive plan,
10. to protect the constitutional rights of our citizens.

#### **88-445-01-B. SIGNS EXEMPT FROM REGULATION**

The following signs are exempt from regulation under this chapter:

1. any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance, or by order of a court of competent jurisdiction;
2. any sign inside a building;
3. traffic control signs on private property, such as Stop, Yield, and similar signs, the faces of which meet standards set forth in the *Manual on Uniform Traffic Control Devices* and which contain no commercial message of any sort; and
4. Numbers, letters and symbols or other configurations not representing a commercial message which are etched as metal or masonry cornerstone plates or imbedded into the facade of any building or other structure.

**88-445-01-C.SIGN PERMITS**

Signs may only be constructed after issuance of a sign permit according to the regulations of the building code.

**88-445-01-D.PROHIBITED SIGNS**

1. The following signs are expressly prohibited in all districts:
  - (a) animated signs;
  - (b) banners, except as specifically allowed as special event temporary signs elsewhere in this chapter; pennants; and wind-blown signs;
  - (c) portable signs;
  - (d) vehicle signs; for purposes of this section, a vehicle parked containing a commercial message or image and regularly parked on the street side of any business and not regularly and customarily used in the business;
  - (e) signs on benches;
  - (f) signs on trees;
  - (g) signs on utility poles (not within the right-of-way), other than signs installed by the utility and related to the utility facility;
  - (h) signs blocking required means of egress from a building; and
  - (i) signs within the public right-of-way or on public property, except signs posted in accordance with this chapter, or projecting signs as allowed by this chapter.
2. The list of prohibited sign types is not exclusive; any sign that is not exempt from this chapter, not established as a lawful nonconforming sign, or not expressly allowed by this chapter is a prohibited sign.

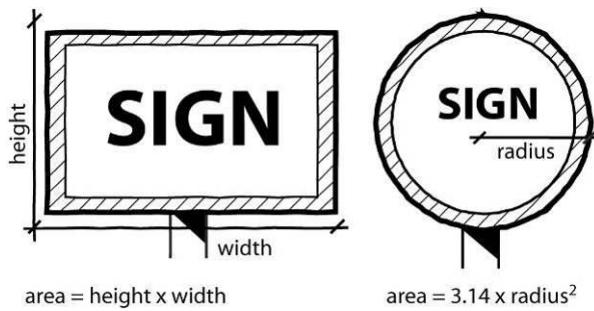
**88-445-01-E.APPLICABILITY**

No sign or outdoor advertising device as defined by this development code may be placed, erected, altered, rebuilt, enlarged, extended or relocated except according to the regulations of this chapter. The repainting, changing of parts and preventative sign maintenance are not considered alterations.

**88-445-02 SIGN MEASUREMENT AND INTERPRETATION**

**88-445-02-A.SIGN AREA**

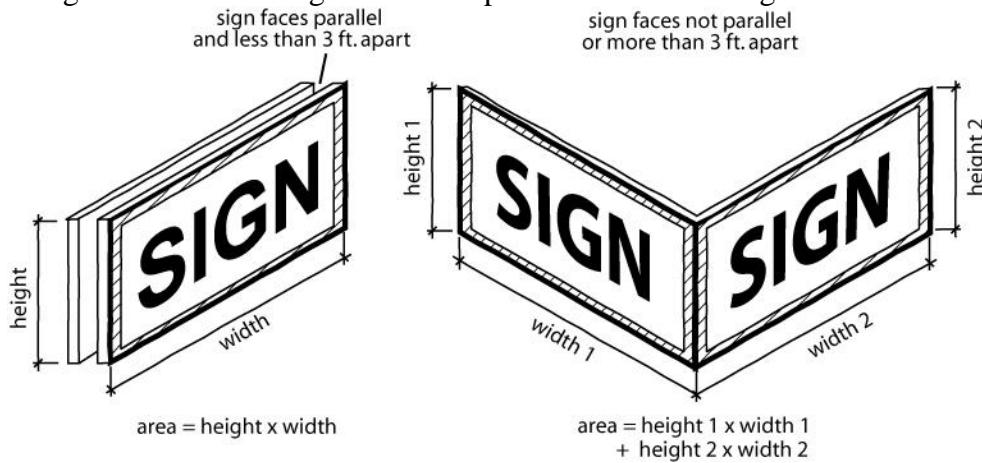
1. The area of a cabinet sign will be computed by the smallest rectangle or circle necessary to encompass the entire perimeter enclosing the extreme limit of all elements composing such sign but not including any structural elements lying outside the limits of the sign and not forming in integral part of the display.



2. The area of a channel sign (individual letters, numbers, or symbols with no background) will be measured by the sum of all rectangular areas necessary to encompass each letter, number, or symbol.

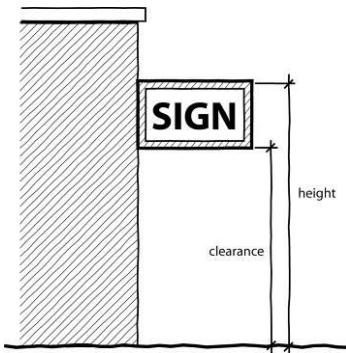
## INDIVIDUAL LETTER SIGN

3. Each individual message or logo separated by 18 inches or a space equal in width to two letters of the sign, whichever is greater, will be counted as one sign toward the maximum number allowed per elevation.
4. When the sign faces of a double-faced sign are parallel and the distance between the faces is 3 feet or less, only one display face will be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign will be the area of the larger sign. In all other cases, the areas of all faces of a multi-faced sign will be added together to compute the area of the sign.



### 88-445-02-B. SIGN HEIGHT MEASUREMENT

The height of a sign or sign structure is measured from the lowest point of the ground directly below the sign to the highest point on the sign or sign structure.



#### **88-445-02-C.SIGN CLEARANCE MEASUREMENT**

Clearance is measured from the highest point of the ground directly below the sign to the lowest point on the sign structure enclosing the sign face.

#### **88-445-03 NONCOMMERCIAL SIGNS; SUBSTITUTION OF MESSAGES**

Any sign allowed or that would be allowed without permit, by sign permit, by special use permit, or by variance, may contain, in lieu of any other message or copy, any lawful noncommercial message that does not direct attention to a business, product, commodity or service for sale or lease, or to any other commercial interest or activity, so long as the sign complies with the size, height and other requirements of this chapter.

88-445-03-B. It is the City's policy to regulate signs in a constitutional manner that is content neutral as to noncommercial signs.

#### **88-445-04 SEVERABILITY AND CONSTRUCTION OF SIGN REGULATIONS**

##### **88-445-04-A.GENERALLY**

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of the provisions of this chapter related to signs is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality does not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter.

##### **88-445-04-B.SEVERABILITY WHERE LESS SPEECH RESULTS**

Without diminishing or limiting in any way the declaration of severability set forth above in 88-445-04-A, or elsewhere in this chapter in this zoning and development code, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter is declared unconstitutional, that does not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

##### **88-445-04-C.SEVERABILITY OF PROVISIONS PERTAINING TO PROHIBITED SIGNS**

Without diminishing or limiting in any way the declaration of severability set forth above in 88-445-04-A, or elsewhere in this chapter or in this zoning and development code, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this article or any other laws declared unconstitutional by valid judgment or decree of any

court of competent jurisdiction, the declaration of such unconstitutionality does not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter that pertains to prohibited signs, including specifically those signs and sign types prohibited and not allowed anywhere or in specific locations under this chapter. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality does not affect any other part, section, subsection, paragraph, sentence, phrase, clause, term or word of this chapter.

**88-445-04-D.SEVERABILITY AND CONSTRUCTION RELATED TO  
NONCOMMERCIAL SIGNS**

This chapter, including provisions for the substitution of messages must be broadly construed to allow noncommercial messages, subject only to size, height, location and number limits that would apply to any sign bearing any message in that zoning district; any provision which is construed to limit the use of an apparently permitted sign for a noncommercial message should be disregarded in the administration of this chapter and struck down as unconstitutional and severed by any court considering it.

**88-445-05 SIGNS IN THE PUBLIC RIGHT-OF-WAY AND ON PUBLIC PROPERTY**

**88-445-05-A.SIGNS PERMITTED**

Only the following signs are permitted in the right-of-way and on public property unless upon issuance of an encroachment permit by the city:

1. Signs installed by any of the following and directly related to the use of the right-of-way or public property, including the control and direction of traffic:
  - (a) City, county or state government entities;
  - (b) Any transit company authorized to provide service to or through Kansas City;
  - (c) Any public utility with a franchise or other agreement with Kansas City; or
  - (d) Any other government entity or person expressly authorized by local, state, or federal law to install a sign in the right-of-way.
2. No sign permitted by this section may contain any commercial message or image other than one related to a utility or transit service, and no such sign may be animated or lighted, unless the commercial message or image, animation or lighting is expressly required by a valid and applicable local, state or federal law.

**88-445-05-B.OTHER SIGNS**

Any other sign placed or installed in the right-of-way will be deemed an unlawful sign and an abandoned sign and will be subject to immediate removal by the City of Kansas City, without compensation to the owner. The owner or other person placing the sign will be subject to the penalty provisions of 88-615.

## **88-445-06 SIGNS IN RESIDENTIAL DISTRICTS**

### **88-445-06-A. RESIDENTIAL SIGNS**

Only the following signs are allowed in districts R-80, R-10, R-7.5, R-6, R-2.5, R-1.5, R-0.5, and R-0.3:

#### **1. GENERAL RULES**

##### **(a) LIGHTING**

Except where otherwise specified, signs in residential districts may have indirect lighting only.

##### **(b) FLASHING, MOVING AND SIMILAR SIGNS**

Flashing, moving, animated, wind-blown or other signs that move or simulate movement are prohibited.

##### **(c) TRAFFIC CONTROL SIGNS**

In addition to other signs permitted under this section, any lot or parcel containing more than 4 dwelling units, a permitted institutional use, or a permitted commercial use, may contain signs conforming with the *Manual of Uniform Traffic Control Devices* and not containing any commercial message.

##### **(d) MESSAGES**

Any sign allowed under this section may bear a noncommercial message. Limited commercial messages are allowed, in accordance with express provisions of this section, but such commercial messages may not advertise or direct attention to a business or commercial activity other than one lawfully conducted on the premises, as expressly allowed under this section.

#### **2. SINGLE-FAMILY AND TWO-FAMILY HOUSES**

A lot with a principal use of a single family or two-family home may have:

- (a) For each entrance (excluding garage entrances) to a dwelling unit, one wall sign, not to exceed 80 square inches in area.
- (b) One interim sign bearing a noncommercial message or a message related to the sale, lease, rental, or construction of the home. Such sign may not exceed 8 square feet in area or 4 feet in height.
- (c) Additional interim signs not bearing commercial messages. No such sign may exceed 8 square feet in area or 4 feet in height. A maximum of 16 square feet of sign area is allowed per lot.
- (d) During the period from 6 weeks prior to a public election to be held in Kansas City to 2 weeks after such election, each lot may display additional signs not bearing commercial messages. No such sign may exceed 8 square feet in area or 4 feet in height.

**3. MULTI-FAMILY BUILDINGS**

A lot with a principal use of a multi-family building may have:

**(a) WALL SIGNS**

- (1) One wall sign per building not to exceed 12 square feet in area. The message on such sign may include a commercial message related to the sale, lease or rental of units in the building or complex.
- (2) For each building entrance providing access to multiple dwelling units, an additional sign which may not exceed 4 square feet in area, provided that no message on such sign other than a word such as "directory" or similar identifying word may be legible from a location on the public right-of-way or on private property other than that which is part of the same complex.
- (3) For each entrance (excluding garage entrances) to an individual dwelling unit, one wall sign, not to exceed 80 square inches in area
- (4) For any multi-family residential building containing one or more offices, as permitted under the zoning for the district, one additional wall sign is permitted, which sign may not exceed 16 square feet in area. The wall sign may bear a commercial message related to activities lawfully conducted on the premises or a noncommercial message.

**(b) INCIDENTAL SIGNS**

One additional sign per driveway is permitted, which sign may not exceed 36 inches in height and 2 square feet in area. Such sign may not contain a commercial message.

**(c) INTERIM SIGNS**

- (1) One interim sign bearing a noncommercial message or a message related to the sale, lease, rental, or construction of the units. Such sign may not exceed 8 square feet in area or 4 feet in height.
- (2) Additional interim signs not bearing commercial messages. No such sign may exceed 8 square feet in area or 4 feet in height. A maximum of 16 square feet of sign area is allowed per lot.
- (3) During the period from 6 weeks prior to a public election to be held in Kansas City to 2 weeks after such election, each lot may display additional signs displaying noncommercial messages. No such sign may exceed 8 square feet in area or 4 feet in height.

**4. INSTITUTIONAL USES**

A lot with an institutional use as its principal use, such as a church, school, police or fire station, hospital, community center, public park, or other permitted principal uses not described herein, may have:

(a) **MONUMENT SIGNS**

One monument sign per street frontage which may not exceed 32 square feet in area or 6 feet in height. One sign per lot may include changeable copy, but the changeable copy feature must use direct human intervention for changes and may not include any form of digital or electronic display. Such sign may be lighted with direct white light.

(b) **WALL SIGNS**

One wall sign per public entrance, which may not exceed 20 square feet in area. Such sign may be internally or directly illuminated.

(c) **INTERIM SIGNS**

- (1) One interim sign bearing a noncommercial message or a message related to the sale, lease, rental, or construction of the property. Such sign may not exceed 8 square feet in area or 4 feet in height.
- (2) Additional interim signs not bearing commercial messages. No such sign may exceed 8 square feet in area or 4 feet in height. A maximum of 16 square feet of sign area is allowed per lot.
- (3) During the period from 6 weeks prior to a public election to be held in Kansas City to 2 weeks after such election, each lot may display additional signs not bearing commercial messages. No such sign may exceed 8 square feet in area or 4 feet in height.

5. **RESIDENTIAL ENTRANCE SIGNS**

One monument sign is allowed at each street entrance which identifies the name of the residential neighborhood, or multi-family complex or building, which may not exceed 32 square feet in area or 6 feet in height. Such sign may be lighted with direct white light.

6. **INTERIM SUBDIVISION DEVELOPMENT SIGNS**

As an interim use accessory to the permitted activity of lawful subdivision development in a development which will contain at least 20 dwelling units, interim identification signs are permitted, provided that such signs may not exceed 100 square feet in sign area nor more than 15 feet in height; if there is more than one such sign, such signs must be at least 1,000 feet apart. Each such sign may remain in place until 90 percent of the lots in the sector are sold, but no longer than 18 months from the date of erection. All such signs must be located at least 15 feet from the pavement edge or edge of the street or thoroughfare to which it is directed, but not within the sight triangle. All such signs must be within the development or within 2000 feet of the development. These signs may not be illuminated.

7. **GROUP HOMES**

A lot with a principal use of a group home may have:

- (a) For each entrance (excluding garage entrances) one wall sign, not to exceed 80 square inches in area

- (b) One interim sign bearing a noncommercial message or a message related to the sale, lease, rental, or construction of the home. Such sign may not exceed 8 square feet in area or 4 feet in height.
- (c) Additional interim signs not bearing commercial messages. No such sign may exceed 8 square feet in area or 4 feet in height. A total of 16 square feet of sign area is allowed per lot.
- (d) During the period from six weeks prior to a public election to be held in the city to two weeks after such election, each lot may display additional signs not bearing commercial messages. No such sign may exceed 8 square feet in area or 4 feet in height.

## 8. OTHER PRINCIPAL USES AND VACANT LOTS

A lot with a principal use not described in this section, or a vacant lot may have:

- (a) One interim sign bearing a noncommercial message or a message related to the sale, lease, rental, or construction of the property. Such sign may not exceed 8 square feet in area or 4 feet in height.
- (b) Additional interim signs not bearing commercial messages. No such sign may exceed 8 square feet in area or 4 feet in height. A total of 16 square feet of sign area is allowed per lot.
- (c) During the period from six weeks prior to a public election to be held in the city to two weeks after such election, each lot may display additional signs not bearing commercial messages. No such sign may exceed 8 square feet in area or 4 feet in height.

## 88-445-07 SIGNS IN NON-RESIDENTIAL DISTRICTS (OFFICE, COMMERCIAL AND MANUFACTURING)

The following business advertising signs are permitted in non-residential districts. Signs within the P/O, pedestrian-oriented overlay district must comply with the requirements of Sec. 88-445-09.

<b>Sign Type (specific use or location)</b>	<b>Max. Number</b>	<b>Max. Area (sq. ft.)</b>	<b>Setback (feet)</b>	<b>Max. Height (ft.)</b>	<b>Illumination</b>	<b>Additional Requirements</b>
<b>Monument Signs</b>						
development district	2 per entrance; 1 per frontage without entrance	75	10	8	internal or external	Sec. 88-445-08-A.
individual buildings on parcels of min. 100 ft. frontage	1 per street frontage	30	10	6	internal or external	Sec. 88-445-08-A.

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 081033AS AMENDED

<b>Sign Type (specific use or location)</b>	<b>Max. Number</b>	<b>Max. Area (sq. ft.)</b>	<b>Setback (feet)</b>	<b>Max. Height (ft.)</b>	<b>Illumination</b>	<b>Additional Requirements</b>
individual buildings on parcels of min. 200 ft. frontage	1 per street frontage	50	10	6	internal or external	Sec. 88-445-08-A

**Oversized**

**Monument**

**Signs**

properties zoned B3 and higher of minimum 15 acres in area	1 per major street frontage	200	20	24	internal or external	Sec. 88-445-08-B
properties zoned B3 and higher of minimum 15 acres in area and adjacent to a limited access highway	1 per major street frontage	300	20	35	internal or external	Sec. 88-445-08-B

**Wall Signs**

individual buildings with interior tenants (such as Wal-Mart, Target)	3 per building elevation to identify major tenant plus 3 (total) per building elevation to identify subtenants	subtenant sign may not exceed 12 sq. ft.  10% of wall area (cumulative total; includes all wall awning, canopy, blade and marquee signs)			internal or external	Sec. 88-445-08-C
tenant in multi-tenant building with exterior entrance (such as strip mall)	3 per tenant per building elevation	10% of wall area (cumulative total; includes all wall awning, canopy, blade and marquee signs)			internal or external	Sec. 88-445-08-C (end wall may identify max. of 3 tenants within building at 10% total max area)

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 081033AS AMENDED

<b>Sign Type (specific use or location)</b>	<b>Max. Number</b>	<b>Max. Area (sq. ft.)</b>	<b>Setback (feet)</b>	<b>Max. Height (ft.)</b>	<b>Illumination</b>	<b>Additional Requirements</b>
single purpose building (such as car dealership, pad building, gasoline station)	3 per elevation	10% of wall area (cumulative total; includes all wall awning, canopy, blade and marquee signs)			internal or external	Sec. 88-445-08-C.
<b>Projecting Signs</b>						
individual buildings	1 per building wall (in lieu of 1 wall sign)	12 if perpendicular to building; 40 if installed radially on building corner			internal or external	Sec. 88-445-08-E
tenant in multi-tenant building	1 per building wall (in lieu of 1 wall sign)	12 if perpendicular to building; 40 if installed radially on building corner			internal or external	Sec. 88-445-08-E
<b>Roof Signs</b>	1 per building			8 (from top of highest parapet)	internal or external	Sec. 88-445-08-F
<b>Incidental Signs</b>	as required to direct pedestrian and vehicular traffic	6 for commercial; 2 for residential development	10	3 (freestanding); 8 (wall-mounted)	internal or external	Sec. 88-445-08-G.
<b>Interim Signs to identify a developer or development</b>	1 per 1,000' frontage on interstate highway	300	20	15	external	Sec. 88-445-08-H
<b>Interim Signs (real estate/other)</b>	1 per street frontage	32	10	8; 15 if abutting interstate highway	external	Sec. 88-445-08-I

<b>Sign Type (specific use or location)</b>	<b>Max. Number</b>	<b>Max. Area (sq. ft.)</b>	<b>Setback (feet)</b>	<b>Max. Height (ft.)</b>	<b>Illumination</b>	<b>Additional Requirements</b>
<b>Special Event Temporary Signs, including Banners</b>	Freestanding: 1 per street frontage Wall: 1 per elevation	Freestanding: 40 Wall: All signage not to exceed 10% of wall area	10	6	Not allowed	Sec. 88-445- 08-J.
<b>Ornamental Tower Signs</b>	2 per tower; max. 3 towers or structures	10% of wall area (includes awning, canopy, marquee signage)		none	internal or external	Sec. 88-445- 08-K.

## **88-445-08 ADDITIONAL REQUIREMENTS FOR SPECIFIC SIGN TYPES IN NON- RESIDENTIAL DISTRICTS**

### **88-445-08.A. MONUMENT SIGNS**

1. All monument signs must be set back a minimum of 10 feet from the property line.
2. All monument signs must be set upon a masonry base of material and design compatible with that of the development. The width of the base must be a minimum of 75 percent of the width of the widest part of the sign.
3. Electronic, digital, and motorized monument signs are permitted in Districts B-4, the Urban Redevelopment Districts and any Manufacturing or Downtown Districts, provided that the message or image does not change more than once every hour, and provided that the sign complies with the following requirements:
  - (1) There may be no effects of movement, flashing, scintillation, or similar effects;
  - (2) Changes of image must be instantaneous as seen by the human eye and may not use fading, rolling, window shading, dissolving, or similar effects as part of the change;
  - (3) Electronic and digital signs must use automatic level controls to reduce light levels at night and under cloudy and other darkened conditions, in accordance with the standards set forth in this sub-section. All electronic and digital signs must have installed ambient light monitors, and must at all times allow such monitors to automatically adjust the brightness level of the electronic sign based on ambient light conditions. Maximum brightness levels for electronic and digital signs may not exceed 5000 nits when measured from the signs face at its maximum brightness, during daylight hours, and 500 nits when measured from the signs face at its maximum brightness between sunset and sunrise, as those times are determined by the National Weather Service.

- (4) The sign must be located at least 250 feet from any residentially zoned and occupied property, and must be located on a major thoroughfare.
4. Monument signs used to identify a development district must be located on a major thoroughfare.

#### **88-445-08-B. OVERSIZED MONUMENT SIGNS**

1. Oversized monument signs must be set back a minimum of 20 feet from the property line and must be located on a major thoroughfare as designated by the Major Street Plan.
2. All monument signs must be set upon a masonry base of material and design compatible with that of the development. The width of the base must be a minimum of 75 percent of the width of the widest part of the sign.
3. Electronic, digital, and motorized signage is not permitted .
4. The design of the sign must be in character with the architecture and material of the development it identifies.
5. When an oversized monument sign is used to identify a development district, additional development district monument signs are not permitted.
6. A special use permit is required for oversized monument signs.

#### **88-445-08-C. WALL SIGNS**

1. Wall signs must be permanently attached to the building and parallel to its surface, extending no more than 12 inches from the wall.
2. Wall signs may not extend above the parapet of the building.
3. Electronic, digital, or motorized wall signage is not permitted.

#### **88-445-08-D. AWNING, CANOPY, MARQUEE AND UNDER-MARQUEE SIGNS**

1. No awning, canopy, marquee or under-marquee sign may project above the parapet of the building.
2. The maximum length of under-marquee signs  $\frac{1}{2}$  the distance the marquee or canopy projects from the wall, or 8 feet, whichever is less.
3. Under-marquee signs may not hang more than 24 inches below the lowest point on the marquee or canopy.
4. All awning, canopy, marquee and under-marquee signs must have a minimum clearance of 8 feet above the sidewalk or ground below.

#### **88-445-08-E. PROJECTING SIGNS**

1. Maximum thickness of projecting signs is 50% of its projecting distance.
2. Projecting signs may not project more than 4 feet from the building wall. For signs installed radially on building corners, maximum projection is 5 feet.
3. Projecting signs may not project above the parapet of the building.
4. The minimum clearance required for projecting signs is 8 feet.

**88-445-08-F. ROOF SIGNS**

1. Roof signs are permitted only as follows:
  - (a) in nonresidential zoning districts within the area bound by the Missouri River, Paseo Boulevard 31<sup>st</sup> Street, and State Line; or
  - (b) within the M2-3 district, on a roof that is set back at least 1,000 feet from all property lines.
2. The supporting structure for a roof sign must comply with all applicable engineering and code requirements. Such supporting structures must consist of the fewest number of supporting members without embellishments, consistent with all applicable municipal code requirements.
3. Roof signs are not permitted on buildings unless the top of the highest portion of the roof is at least 50 feet above grade.
4. The maximum horizontal dimension of a roof sign may not exceed 50% of the width of the wall it most closely parallels.
5. The maximum height of a roof sign and its supporting structure may not exceed 26 feet from the top of the sign to the elevation of the top of the roof.

**88-445-08-G. INCIDENTAL SIGNS**

1. Incidental signs must be set back a minimum of 10 feet from all property lines.
2. All such signs must be shown on development plans and must be approved as part of the final plan.

**88-445-08-H. INTERIM FREESTANDING SIGNS**

1. Interim freestanding signs are not permitted within 2,000 feet of another such sign in the same development.
2. City plan commission approval is required. The sign must be removed within 3 years or upon completion of development, whichever occurs first. The city plan commission may approve one extension of up to 3 years, provided an application for extension is made prior to the expiration of the original approval.

**88-445-08-I. INTERIM SIGNS**

City plan commission approval is required for interim signs, except real estate signs or noncommercial signs.

**88-445-08-J. SPECIAL EVENT TEMPORARY SIGNS, INCLUDING BANNERS**

1. Special event temporary signage, including banners will be allowed upon issuance of a permit.
2. Signs will be permitted to be displayed a maximum of either one 60-day period per year or two 30-day periods per calendar year.
3. Pennants, banners or flags will be permitted to be displayed a maximum of four 30-day periods per calendar year. In no case may a 30-day period be carried over from month to month, however.

4. No temporary sign may advertise or promote any commercial enterprise or event not conducted on the same building lot;
5. Temporary signs must be designed, constructed or mounted so as to be reasonably stable under all weather conditions, including high winds;
6. At the expiration of the permitted period(s) for the temporary signs, the signs must be removed.

#### **88-445-08-K. ORNAMENTAL TOWER SIGN**

1. Signs are permitted on ornamental towers when a tower or structure is an integral part of the architectural plan of a building, and may extend beyond the roof level of the building provided that the height of the tower does not exceed the maximum height permitted in the district.
2. Towers or structures with signs must be separated by 500 feet.
3. Such signs must face upon the interior of the center or on the principal street upon which the center fronts.
4. The signs must be submitted as part of a final plan for review and approval by the city plan commission.

#### **88-445-08-L. ILLUMINATION OF SIGNS**

1. Any outdoor lighting arrangement for the illumination of a sign which would be visible from any property in an adjoining R-80, R-10, R-7.5, R-6, R-2.5, R-1.5, R-0.5, or R-0.3 district must be so designed that no flashing or direct glare from any light source is focused, beamed or directed toward such property.
2. Flashing lights, rapidly changing or blinking illumination, rotating beams, or illumination resembling emergency lights are prohibited.
3. The electric supply for all illuminated signs must be located underground unless otherwise expressly approved by the planning and development director.
4. Spillover light onto R-zoned property or public rights-of-way may not exceed 2 lux, measured at grade along the property line.

#### **88-445-09 SIGNS IN THE P/O, PEDESTRIAN-ORIENTED OVERLAY DISTRICT**

Three wall signs are permitted per building elevation, covering a maximum of 10 percent of the total wall area including the area of all awning, canopy, marquee and under-marquee signs. Wall signs may be internally or externally illuminated and must comply with the standards of Sec. 88-445-08-C.

Awning, canopy, marquee and under-marquee signs are permitted, and are included in the maximum area allowed for wall signs. Such signs may be internally or externally illuminated and must comply with Sec. 88-445-08-D .

One projecting sign is allowed per building wall, in lieu of one permitted wall sign. If mounted perpendicular to the building wall, the sign must not exceed 12 square feet in area; if mounted radially on a building corner, it must not exceed 40 square feet in area. The sign may not exceed 50 percent of its projecting distance in thickness.

Projecting signs may be internally or externally illuminated, and may not project more than 4 feet from the building face, with a minimum clearance of 8 feet. On building corners, the sign may project no more than 5 feet. Projecting signs must comply with Sec. 88-445-08-E.

Incidental signs are permitted in the district, according to the standards of Sec. 88-445-08-G.

Business advertising signs are prohibited on premises occupied as residential, institutional, or noncommercial use; in buildings of mixed occupancy, business advertising signs are allowed on or below any level of the building occupied by a commercial use.

Monument signs, electronic, digital and motorized signs, changeable copy panels and outdoor advertising signs are prohibited in this district.

## **88-445-10. SIGNAGE PLAN**

### **88-445-10.A. APPLICABILITY**

A signage plan must be submitted in conjunction with the review and approval of:

1. major site plans, according to the review procedure of 88-530.
2. minor site plans, according to the review procedure of 88-530.
3. special use permits, according to the review procedure of 80-525.
4. any overlay or special purpose districts.

### **88-445-10.B. SIGNAGE PLANS**

1. Signage plans must include specifications for:
  - a. type of signs (wall or monument);
  - b. size (sign area and dimensions);
  - c. materials;
  - d. type of illumination;
  - e. landscaping; and
  - f. location, as well as any other standards necessary for proper development.
2. No sign may be erected in contravention of the design standards.
3. Minor modifications for major site plans, minor site plans, or special use approval or replacement signage may be approved by the city planning and development director according to 88-570.
4. For those development districts which have received approval prior to the effective date of this ordinance, a signage plan as provided above may be submitted at any time prior to the issuance of a permit for a sign. Minor modifications or replacement signage may be approved by the city planning and development director.

## **88-445-11. COMPREHENSIVE SIGNAGE PLAN**

**88-445-11.A. Purpose.** The Comprehensive Signage Plan approval process is intended to integrate the design of the signs proposed for a development project with the design of the

structures, into a unified architectural statement and allow flexibility in the size, height and number of allowed signs. A Comprehensive Signage Plan provides a means for defining common sign regulations for large or unique developments, to encourage maximum incentive and latitude in the design and display of signs and to achieve, not circumvent, the intent of this Chapter.

**88-445-11.B.** Applicability. An applicant may apply for a Comprehensive Signage Plan approval for any property zoned B3 or higher with a minimum of 10 acres of area, except that the minimum zoning and acreage requirement shall not apply to property within the downtown loop.

**88-445-11.C.** Approval authority. A Comprehensive Signage Plan may be approved by the City Council, after the recommendation of the City Plan Commission. A public hearing will be held by both the Commission and a City Council committee on the proposed plan before approval or denial.

**88-445-11.D.** Application requirements. An application for a Comprehensive Signage Plan shall include all information and materials required by Section 88-445-10-B.

**88-445-11.E.** Standards. A Comprehensive Signage Plan shall comply with the following standards:

1. The plan shall comply with the purpose of this Chapter and the overall intent of this Section;
2. The signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Signage Plan, to the structures and/or developments they identify, and to surrounding development and neighborhoods;
3. The signs will not create a safety or traffic hazard.
4. The plan shall accommodate future revisions that may be required because of changes in use or tenants; and
5. The plan shall comply with the standards of this Chapter, except that flexibility is allowed with regard to sign area, number, location, and/or height to the extent that the Comprehensive Signage Plan will enhance the overall development and will more fully accomplish the purposes of this Chapter. The Council may approve signs which are up to 25% larger in size, height or number than would otherwise be allowed by this chapter.

**88-445-11.F.** Time for Determination. The City Plan Commission shall make its recommendation on the Comprehensive Signage Plan within sixty days of the applicant's submittal of all required information and materials, unless the applicant has requested a time extension or continuance which has delayed the process. The City Council shall make its determination within thirty days after the City Plan Commission's recommendation, unless the applicant has requested a time extension or continuance which has delayed the process.

**88-445-11.G.** Revisions to comprehensive signage plan. Minor revisions to a Comprehensive Signage Plan may be approved by the Director of City Development if the intent of the original approval is not affected. Revisions that would substantially deviate from the original approval shall require the approval of a new Comprehensive Signage Plan.

**88-445-12. SIGN VARIANCES.**

The Board of Zoning Adjustment may grant variances to the size and height requirements for signs in accordance with the procedures in Section 88-565 of this Chapter. The Board shall make its determination within sixty days after application, unless the applicant has requested a time extension or continuance which has delayed the process.

**88-445-13. STADIUM DEVELOPMENT SIGNAGE.**

The City recognizes that there is a public need for publicly funded or subsidized stadium developments to have adequate signage which may be different than or greater in number or size than signage that is allowed for other uses. The City also recognizes that the uniqueness of a stadium development may require greater flexibility in the development's sign approval process. Therefore, for developments including a stadium with available seating in excess of 10,000, and which may include retail, entertainment and office uses that are included in a unified development plan, the signage permitted shall be the signage approved by the Council as part of a development plan approval.

**88-445-14. OUTDOOR ADVERTISING SIGNS**

**88-445-14.A. PURPOSE**

The purpose of this section is to preserve and promote the public health, safety and welfare and to provide an orderly, effective and reasonable control of off-premise signs, thereby halting sign proliferation, reducing distractions to drivers and enhancing the visual environment and community character of the city.

**88-445-14.B. REGULATIONS**

Outdoor advertising signs are not permitted in Kansas City except within 660 feet of the right of way of highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system, and only in accordance with the following conditions:

**1. SIGN LOCATION**

- (a) Outdoor advertising signs may not be located within 500 feet of any improvements which are wholly occupied as a residential, institutional or other noncommercial or nonindustrial use.
- (b) Outdoor advertising signs may not be located within 500 feet of any boulevard or parkway under the jurisdiction and control of the board of parks and recreation commissioners.
- (c) Outdoor advertising signs may not be located within 500 feet of a public park, playground, school, library, auditorium, stadium or other publicly owned building used by the general public.

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- (d) Outdoor advertising signs may not be located within 500 feet of property with frontage upon the same highway or interstate and which is zoned by district R-80, R-10, R-7.5, R-6, R-2.5, R-1.5, R-0.5, or R-0.3.
- (e) Outdoor advertising signs may not be attached to the wall or roof of any building.
- (f) Outdoor advertising signs may not be located within 500 feet of an interchange or intersection at grade. Such 500 feet must be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way.
- (g) Outdoor advertising signs are allowed only on property that is zoned M1-5 or M3-5.
- (h) No outdoor advertising sign may be located on, or project over, any public property, right-of-way, utility easement or drainage easement.
- (i) Outdoor advertising signs may not be located within 660 feet of the right of way for the Broadway Bridge, Broadway Extension or U.S. Highway 169 in the area between 5th Street on the south and Briarcliff Parkway/Extension on the north.

## 2. SIZE, HEIGHT AND OTHER DIMENSIONS, AND APPEARANCE

- (a) **HEIGHT**  
Outdoor advertising signs, including their supporting structures, may not exceed 35 feet in height from grade.
- (b) **GROSS AREA OF SIGNS**  
The maximum gross area of any outdoor advertising sign may not exceed a total of 300 square feet.
- (c) No three-sided signs are permitted.
- (d) If an outdoor advertising sign has messages mounted on each side of the sign structure, the 2 sign faces must be parallel and be no more than 5 feet apart.
- (e) Outdoor advertising signs may not have more than one area/face on each side of the sign structure.
- (f) Exposed back of signs, poles and other support structures must be painted black, dark green or dark brown presenting an attractive and finished appearance which will blend with natural surroundings in order to further accomplish the objectives of this chapter.

## 3. LIGHTING, ANIMATION AND ELECTRONIC OPERATION OF SIGNS

- (a) Lighting of billboards must be shielded to prevent beams or rays from being directed at any portion of a traveled roadway or an occupied residential area and may not be of such intensity or brilliance as to cause

glare or impair vision or interfere with the residential use of property or the safe operation of motor vehicles.

- (b) No outdoor advertising sign may have any revolving, moving, flashing, blinking, or animated characteristics.
- (c) No outdoor advertising sign may have any electronic, digital, tri-vision or other changeable copy display.

#### **4. MINIMUM SPACING REQUIREMENTS**

- (a) No outdoor advertising sign structure hereafter erected may be less than 4200 feet from any other existing outdoor advertising structure on either side of the highway or interstate.
- (b) Such minimum spacing distance must be measured along the centerline of the highway or interstate from a point opposite any edge of an outdoor advertising sign structure and perpendicular to the centerline of such highway or interstate.

#### **5. LEGAL NONCONFORMING OUTDOOR ADVERTISING SIGNS**

Legal nonconforming outdoor advertising signs may remain, subject to the following provisions in addition to the provisions of 0:

- (a) Legal nonconforming outdoor advertising signs may be repaired as needed to maintain the safety and appearance of the sign face and structure.
- (b) Lighting and/or electronic or digital displays may not be added to legal nonconforming signs.
- (c) Should a legal nonconforming outdoor advertising sign be destroyed by any means or deteriorates to an extent of more than 50 percent of its replacement cost at time of the destruction or deterioration, it may not be reconstructed and must be removed.
- (d) A legal nonconforming outdoor advertising sign may not be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- (e) Should such legal nonconforming outdoor advertising sign be moved for any reason for any distance whatever, it must thereafter conform to the regulations of the district in which it is located after it is moved.
- (f) Legal nonconforming outdoor advertising signs may not be enlarged or extended, nor may the height be increased.
- (g) If a legal nonconforming outdoor advertising sign remains blank for a continuous period of 90 days, that outdoor advertising sign is deemed abandoned and no longer be deemed a legal nonconforming sign. For purposes of this section, a sign is "blank" if:

- (1) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
- (2) The advertising message it displays becomes illegible in whole or substantial part; or
- (3) The advertising copy paid for by a person other than the sign owner or promoting an interest other than the rental of the sign has been removed.

(h) Legal nonconforming outdoor advertising signs which were legally using electronic or video technology at the time of the passage of this ordinance must comply with the following requirements:

- (1) Such technology must be programmed so that the message or image on the sign changes no more often than once every 8 seconds;
- (2) There may be no effects of movement, flashing, scintillation, or similar effects in the individual images;
- (3) Changes of image must be instantaneous as seen by the human eye and may not use fading, rolling, window shading, dissolving, or similar effects as part of the change;
- (4) Video technology in billboards must use automatic level controls to reduce light levels at night and under cloudy and other darkened conditions, in accordance with the standards set forth in this subsection. All electronic, video or digital display unit signs must have installed ambient light monitors, and must at all times allow such monitors to automatically adjust the brightness level of the electronic sign based on ambient light conditions. Maximum brightness levels for electronic, video or digital display signs may not exceed 5000 nits when measured from the signs face at its maximum brightness, during daylight hours, and 500 nits when measured from the signs face at its maximum brightness between sunset and sunrise, as those times are determined by the National Weather Service.

(i) Nonconforming outdoor advertising signs must comply with subsection 6 of this section.

## 6. MAINTENANCE

All outdoor advertising signs, including the sign faces, poles, supports, and braces, must be kept in good repair and free from tears, rust and other indicia of deterioration.

## 7. ENFORCEMENT AND RECORDKEEPING

- (a) The planning and development director is authorized to enforce the provisions of this ordinance.
- (b) The planning and development director must maintain a master record of all outdoor advertising signs in the city by location.

- (c) The planning and development director may order the removal of any outdoor advertising sign that is not maintained as required by this section, or any sign that is not in compliance with any other provision of this section or the Code of Ordinances.
  - (1) For an outdoor advertising sign that is not being maintained as required by this section, or a nonconforming sign that is not in compliance with the electronic or video technology requirements above, the planning and development director must provide written notice to the signs record owner of the signs deficiencies, and the owner must be given 30 days from the date of the notice to remove the sign or bring the sign into compliance with these requirements.
  - (2) For an outdoor advertising sign that is not in compliance with any other provision of this zoning and development code, the planning and development director will provide written notice to the signs record owner of the signs deficiencies, and the owner must be given 30 days from the date of the notice to remove the sign.
  - (3) The planning and development director's determination that the sign is not in compliance with this zoning and development code may be appealed to the board of zoning adjustment within 15 days of the planning and development director's determination.

#### **88-445-15. UNSAFE SIGNS, SIGNS IN DISREPAIR AND NONCONFORMING SIGNS**

##### **88-445-15.A. Unsafe signs.**

If the City Planning and Development Director finds that any sign is unsafe or insecure, or is a menace to the public, they must give written notice to the owner or lessee.

- 1. If the owner or lessee fails to remove or alter the sign to bring it into compliance with this chapter within 30 days after the notice, the subject owner or lessee will be deemed in violation of this chapter.
- 2. The city planning and development director is authorized to cause any sign that is an immediate peril to persons or property to be removed immediately and without notice to the owner or lessee.

##### **88-445-15.B. Signs in Disrepair**

Any sign that is excessively weathered or faded or upon which the paint has excessively peeled or cracked, or is otherwise in disrepair, must, with its supporting members, be immediately removed or restored to a good state of repair.

##### **88-445-15.C. Nonconforming Signs**

- 1. **CONTINUANCE AND MAINTENANCE OF NONCONFORMING SIGNS**  
Subject to the restrictions of this section, nonconforming signs that were otherwise lawful at the time of installation may be continued. Routine maintenance of nonconforming signs is allowed, including changing sign copy and "re-facing" of existing signs when the re-facing does not result in any structural alterations, additional signs or additional sign appendages.

**2. ALTERATIONS AND EXPANSIONS OF NONCONFORMING SIGNS**

No structural alteration, enlargement, or expansion may be made to a nonconforming sign unless the alteration, enlargement, or expansion will result in elimination of the nonconforming aspects of the sign. Illumination may not be added to any nonconforming sign, and no electrical permits may be issued for a nonconforming sign.

**3. RELOCATION**

A nonconforming sign may not be moved to another location unless doing so would bring the sign into complete conformity with the provisions of this chapter.

**4. ABANDONMENT OF NONCONFORMING SIGN**

Nonconforming signs will be deemed abandoned if they are not maintained in good structural condition and in compliance with all city codes. Nonconforming signs that are structurally unsound, rotted, excessively weathered or faded, contain inoperable electrical equipment, or are otherwise in an obvious state of disrepair will also be deemed abandoned. Once a nonconforming sign is deemed abandoned, it must be removed within 30 days by the sign owner, owner of the property where the sign is located, or other person having control over the sign.

**500 SERIES • • REVIEW AND APPROVAL PROCEDURES**

**88-505 General/Common Procedures**

- 88-505-01 Form of Application
- 88-505-02 Preapplication Consultations
- 88-505-03 Application Processing Cycles
- 88-505-04 Application Filing Fees
- 88-505-05 Application Completeness, Accuracy and Sufficiency
- 88-505-06 Public Hearings
- 88-505-07 Public Hearing Notices
- 88-505-08 Burden of Proof or Persuasion
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## **88-505 GENERAL/COMMON PROCEDURES**

### **88-505-01 FORM OF APPLICATION**

Applications required under this zoning and development code must be submitted in a form and in such numbers as required by the official responsible for accepting the application. Officials responsible for accepting applications must develop checklists of application submittal requirements and make those checklists available to the public. Application forms and checklists of required submittal information are available in the office of the official responsible for accepting the application.

### **88-505-02 PREAPPLICATION CONSULTATIONS**

Preapplication consultations are required whenever the provisions of this zoning and development code expressly state that they are required. They are encouraged in all cases. Required preapplication consultations must be scheduled with city planning and development department staff and must occur at least 48 hours before submitting an application. The city planning and development director is authorized to waive the requirement for preapplication consultations in those cases where the city planning and development director determines that a preapplication consultation is unwarranted in light of the routine nature of the application or the applicant's or agent's experience with the substantive and procedural provisions of this zoning and development code.

### **88-505-03 APPLICATION PROCESSING CYCLES**

Officials responsible for accepting applications may, after consulting with review and decision-making bodies, promulgate processing cycles for applications. Processing cycles may establish:

- 88-505-03-A.**deadlines for receipt of complete applications;
- 88-505-03-B.**dates of regular meetings;
- 88-505-03-C.**the scheduling of staff reviews and staff reports on complete applications; and
- 88-505-03-D.**time-frames for review and decision-making.

### **88-505-04 APPLICATION FILING FEES**

Applications must be accompanied by the fee amount that has been established by the city council. Fees are not required with applications initiated by the city council, city plan commission or city planning and development director. Application fees are nonrefundable 5 working days after application filing, provided that the city planning and development director may grant a partial refund for good cause shown by the applicant.

## **88-505-05 APPLICATION COMPLETENESS, ACCURACY AND SUFFICIENCY**

**88-505-05-A.** An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information and is accompanied by the required filing fee.

**88-505-05-B.** The official responsible for accepting the application must make a determination of application completeness within 5 working days of application filing.

**88-505-05-C.** If an application is determined to be incomplete, the official responsible for accepting the application must provide paper or electronic written notice to the applicant along with an explanation of all known deficiencies in the application that will prevent competent review of the application. No further processing of the application will occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 60 days, the application will be considered withdrawn.

**88-505-05-D.** No further processing of incomplete applications will occur, and incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next processing cycle.

**88-505-05-E.** Applications deemed complete will be considered to be in the processing cycle and will be reviewed by staff and other review and decision-making bodies in accordance with applicable review and approval procedures of this zoning and development code.

**88-505-05-F.** The city planning and development director may require that applications or plans be revised before being placed on the agenda of the city plan commission, board of zoning adjustment or city council if the city planning and development director determines that:

1. the application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with zoning and development code standards; or
2. the application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with zoning and development code standards;

## **88-505-06 PUBLIC HEARINGS**

**88-505-06-A.** Parties in interest, registered neighborhood/civic organizations per 88-505-11, certified civic organizations and citizens must be given an opportunity to appear and be heard at required public hearings, subject to reasonable rules of procedure.

**88-505-06-B.** A public hearing for which proper notice was given may be continued to a later date without providing additional notice as long as the continuance is set for specified date and time and that date and time is announced at the time of the continuance.

**88-505-06-C.** If a public hearing is tabled or deferred for an indefinite period of time or postponed more than 3 months from the date of the originally scheduled public hearing, new public notice must be given before the rescheduled public hearing. If the applicant requests a postponement, the applicant is responsible for paying any costs of re-notification.

**88-505-06-D.** Prior to the city plan commission hearing, an applicant must make a reasonable effort to contact and meet with, if requested, the applicable neighborhood and/or

civic organizations registered with the city. Failure to do so may be cause for continuance by the city plan commission.

## **88-505-07 PUBLIC HEARING NOTICES**

### **88-505-07-A. NEWSPAPER NOTICE**

Whenever the provisions of this zoning and development code require that newspaper notice be provided, the notice must be published by the city in a newspaper of general circulation within Kansas City or as otherwise required by law. Whenever a procedure requires multiple hearings—one before the city plan commission and one before the city council, for example—separate notices of each public hearing may be provided or notice of the time and place of multiple hearings may be provided in a single notice.

### **88-505-07-B. MAILED NOTICE**

Required mailed notices must be sent by U.S. mail, first class. Addresses must be based on the latest available, city-maintained property ownership information. Notices must be mailed at least 13 days before the scheduled hearing. For all hearings before the board of zoning adjustment or city plan commission, the city planning and development director must certify by affidavit that the mailing has occurred. The affidavit will become part of the record as proof of such mailing. For all public notices before the city council, the director of records must certify by affidavit that such mailing has occurred; and such affidavit must become part of the record as proof of such mailing.

### **88-505-07-C. COURTESY NOTICES**

In addition to any required public hearing notices, the city may elect to provide additional courtesy notification, which may include Internet postings and information signs posted on the subject property.

### **88-505-07-D. CONTENT OF NOTICE**

All required public hearing notices should: (1) indicate the date, time and place of the public hearing or date of action that is the subject of the notice; (2) describe any property involved in the application by street address or by general description; (3) describe the general nature, scope and purpose of the application or proposal; and (4) indicate where additional information on the matter can be obtained.

## **88-505-08 BURDEN OF PROOF OR PERSUASION**

In all cases, the burden is on the applicant to show that an application complies with applicable review or approval criteria.

## **88-505-09 ACTION BY REVIEW BODIES AND DECISION-MAKING BODIES**

**88-505-09-A.** Review and decision-making bodies may take any action that is consistent with:

1. the regulations of this zoning and development code;
2. any by-laws that may apply to the review or decision-making body; and
3. the notice that was given.

**88-505-09-B.** Review and decision-making bodies are expressly authorized to defer action or continue a public hearing in order to receive additional information or further deliberate on the matter.

**88-505-10 CONDITIONS OF APPROVAL**

When review bodies recommend or decision-making bodies approve applications with conditions, the conditions must relate to a situation created or aggravated by the proposed use or development and must be roughly proportional to the impacts of the use or development.

**88-505-11 REGISTERED NEIGHBORHOOD AND CIVIC ORGANIZATIONS**

**88-505-11-A.ELIGIBILITY**

**1. NEIGHBORHOOD ORGANIZATION ELIGIBILITY STANDARDS**

To be eligible to be registered as provided in this article, neighborhood organizations must meet the following standards:

- (a) be an organization made up of residents and owners of real property within a defined geographic area;
- (b) establish membership by virtue of residency or occupancy partially or wholly within their boundaries;
- (c) maintain officers and/or representatives, and demonstrate the method by which such officers and/or representatives are selected;
- (d) hold meetings, not less than once in each calendar year, at which all members may vote;
- (e) keep all meetings, including the required annual meeting, must be open to the public;
- (f) post in advance notice of all meetings in public places and/or in readily obtained publications, such as newsletters, within their boundaries; and
- (g) establish boundaries, which may include one or more neighborhoods within the city, provided that the boundaries of a neighborhood organization may not encompass the entire city.

**2. CIVIC ORGANIZATION ELIGIBILITY STANDARD**

Civic organizations with dues-paying members are eligible to be registered.

**88-505-11-B. REGISTRATION AND PROCESSING**

**1. FILING**

Any organization and/or coalition of organizations must be registered by completing a form as provided by the Neighborhood and Community Services Department.

## 2. MAINTENANCE OF REGISTRY

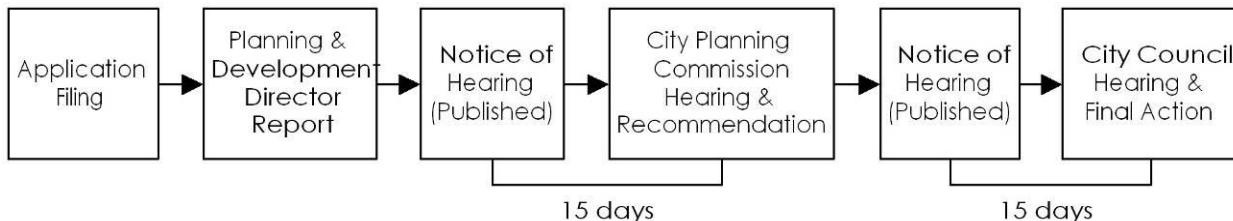
The neighborhood and community services department has the following duties in connection with all registered organizations:

- (a) develop a registration form and maintain completed forms;
- (b) maintain a current map of the boundaries and a current list of the official names, boundaries, officers and contact persons of all registered organizations;
- (c) maintain and update in a timely manner the map and list of registered neighborhood and civic organizations on the city's official website; and
- (d) notify all registered neighborhood and civic organizations each December of their obligation to re-register by January 31st, that the list of registered organizations is available on the city's website and that a paper copy of the list will be furnished upon request.

### 88-505-11-C.DE-LISTING AND RE-LISTING

Any registered organization that does not meet or ceases to meet the eligibility criteria of 88-505-11 or that does not register or register, as required, will no longer be considered a registered organization. Upon demonstrating that it has corrected the deficiency that caused its de-listing, an organization may be re-listed as a registered organization.

## 88-510 ZONING AND DEVELOPMENT CODE TEXT AMENDMENTS



### 88-510-01 ZONING AND DEVELOPMENT CODE AMENDMENT CYCLE

The city planning and development director is authorized to establish a regular and systematic cycle for processing amendments to the text of this zoning and development code. This text amendment cycle is intended to allow for the efficient and timely processing of technical, interpretative and "clean-up" amendments and should occur at least once per year and no more often than 4 times per year. This provision is not intended to prohibit the city plan commission or city council from considering text amendments outside the regular amendment cycle.

### 88-510-02 AUTHORITY TO FILE

Amendments to the text of this zoning and development code may be filed only by the city council, the city plan commission or the city planning and development director.

### 88-510-03 NOTICE OF HEARING

Notice of required public hearings on zoning and development code text amendments must be published in the newspaper at least 15 days before the date of the public hearing. See 88-505-07.

**88-510-04 REVIEW AND REPORT—CITY PLANNING AND DEVELOPMENT DIRECTOR**

The city planning and development director must prepare a report that evaluates the proposed amendment in light of adopted plans, the relevant provisions of this zoning and development code and the review criteria of 88-510-07.

**88-510-05 HEARING AND RECOMMENDATION—CITY PLAN COMMISSION**

The city plan commission must hold a public hearing on each proposed text amendment. Following the close of the hearing, the city plan commission must act by simple majority vote to recommend that the proposed text amendment be approved, approved with modifications, denied, or continued for further consideration.

**88-510-06 HEARING AND FINAL ACTION—CITY COUNCIL**

**88-510-06-A.** After action by the city plan commission, the city council or designated city council committee may convene its own public hearing on the proposed text amendment. If no recommendation is received from the city plan commission within 120 days of the date of published notice on the text amendment, the city council is authorized to proceed without a recommendation from the city plan commission.

**88-510-06-B.** Following the public hearing, the city council or designated city council committee may act to approve the proposed text amendment, approve the proposed text amendment with modifications or deny the proposed text amendment. The city council may also return the application to the city plan commission for further consideration, together with a written explanation of the reasons for doing so.

**88-510-06-C.** The city council and city council committees must act in accordance with the city charter and applicable state law.

**88-510-07 REVIEW CRITERIA**

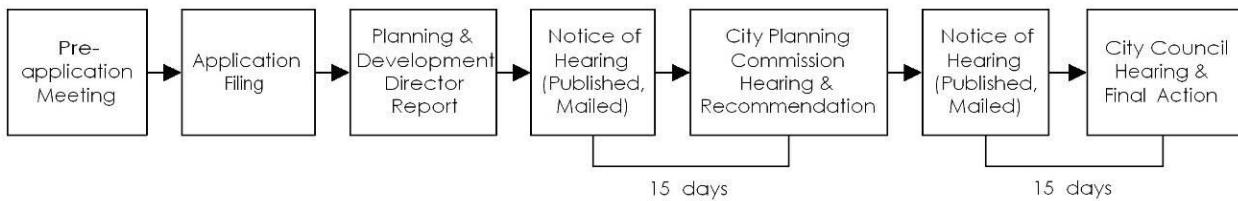
In reviewing and making decisions on zoning map amendments, the city planning and development director, city plan commission and city council must consider at least the following factors:

**88-510-07-A.** whether the proposed zoning and development code text amendment corrects an error or inconsistency in the zoning and development code or meets the challenge of a changing condition;

**88-510-07-B.** whether the proposed zoning and development code text amendment is consistent with adopted plans and the stated purpose of this zoning and development code; and

**88-510-07-C.** whether the proposed zoning and development code text amendment is in the best interests of the city as a whole.

## **88-515 ZONING MAP AMENDMENTS (REZONINGS)**



### **88-515-01 AUTHORITY TO FILE**

**88-515-01-A.** Applications to amend the zoning map may be filed only by:

1. the subject landowner;
2. the subject landowner's authorized agent;
3. the city council;
4. the city plan commission; or
5. the city planning and development director, acting on the city's behalf.

**88-515-01-B.** Applications for rezoning to the UR district may be filed only by:

1. any governmental agency or corporation having the power of eminent domain; or
2. an owner of assembled properties or successors in interest;
3. designated developers or an applicant for designation as a developer under RSMo 99.800; or
4. a redevelopment corporation under RSMo 353.

### **88-515-02 PREAPPLICATION CONSULTATION**

A preapplication consultation is required in accordance with 88-505-02 before filing of a zoning map amendment application if the zoning map amendment is inconsistent with the adopted land use plan.

### **88-515-03 APPLICATION FILING**

Complete applications for zoning map amendments must be filed with appropriate personnel in the city planning and development department.

### **88-515-04 NOTICE OF HEARING**

#### **88-515-04-A. REQUIRED NEWSPAPER NOTICE**

Notice of required public hearings on zoning map amendments must be published in the newspaper at least 15 days before the date of the public hearing. See 88-505-07.

#### **88-515-04-B. REQUIRED MAILED NOTICE**

Notice of required public hearings must be mailed to the subject property owner, any Registered neighborhood organization and/or registered civic organization whose boundaries include the subject property, and all owners of property within 300 feet of the subject property. See 88-505-07.

**88-515-04-C.COURTESY POSTED NOTICE**

Applicants are responsible for providing additional courtesy notice to interested parties by posting a sign on the subject property visible from each abutting public right-of-way. Signs must be posted by the applicant at least 15 days before the public hearing.

**88-515-05 REVIEW AND REPORT—CITY PLANNING AND DEVELOPMENT DIRECTOR**

The city planning and development director must prepare a report and recommendation that evaluates the proposed zoning map amendment in light of adopted plans and the review criteria of 88-515-08.

**88-515-06 HEARING AND RECOMMENDATION—CITY PLAN COMMISSION**

The city plan commission must hold a public hearing on the proposed zoning map amendment. Following the close of the hearing, the city plan commission must act by simple majority vote to recommend that the proposed zoning map amendment be approved, approved with modifications or denied. The city plan commission may also act to continue the matter for further deliberation. If the city plan commission does not act on a zoning map amendment within 60 days of the date of the public hearing, the proposed amendment must be forwarded to the city council with no recommendation.

**88-515-07 HEARING AND FINAL ACTION—CITY COUNCIL**

**88-515-07-A.** After action by the city plan commission, the city council may convene its own public hearing on the proposed zoning map amendment.

**88-515-07-B.** Following the close of the public hearing, the city council may act to approve the proposed zoning map amendment, approve the proposed zoning map amendment with modifications or deny the proposed zoning map amendment. The city council may also return the application to the city plan commission for further consideration, together with a written explanation of the reasons for doing so.

**88-515-07-C.** The city council may act by a simple majority vote, except when a valid protest petition has been submitted in accordance with 88-515-09, approval or approval with modifications requires a 2/3 majority vote of the full membership of the city council.

**88-515-08 REVIEW CRITERIA**

In reviewing and making decisions on proposed zoning map amendments, the city planning and development director, city plan commission and city council must consider at least the following factors:

**88-515-08-A.** conformance with adopted plans and planning policies;

**88-515-08-B.** zoning and use of nearby property;

**88-515-08-C.** physical character of the area in which the subject property is located;

**88-515-08-D.** whether public facilities (infrastructure) and services will be adequate to serve development allowed by the requested zoning map amendment;

**88-515-08-E.** suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations;

**88-515-08-F.** length of time the subject property has remained vacant as zoned;

**88-515-08-G.** the extent to which approving the rezoning will detrimentally affect nearby properties; and

**88-515-08-H.** the gain, if any, to the public health, safety and welfare due to denial of the application, as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

## **88-515-09 PROTEST PETITIONS**

**88-515-09-A.** A formal protest petition opposing a zoning map amendment must be submitted to the city planning and development director before the city council's vote, allowing sufficient time to determine the validity of the petition.

**88-515-09-B.** A protest petition will be considered "valid" if it is notarized and signed by the owners of 30% or more of:

1. the land area included in the proposed amendment; or
2. the total real property within 185 feet of the property that is the subject of the zoning map amendment request.

**88-515-09-C.** In the case of joint ownership, all property owners must sign the petition.

**88-515-09-D.** When a valid protest petition has been submitted, approval of a zoning map amendment requires a 2/3 majority vote of the full membership of the city council.

## **88-515-10 SUCCESSIVE APPLICATIONS**

If the city council denies an application for a zoning map amendment, an application for the same zoning district may not be re-filed for one year from the date of action by the city council. The city plan commission, upon petition by the applicant, may permit a re-filing of the application 6 months after the original city council public hearing date when it determines that significant physical, economic or land use changes have taken place on the subject tract or within the immediate vicinity, or a significant zoning and development code text amendment has been adopted.

## **88-520 MASTER PLANNED DEVELOPMENTS**

### **88-520-01 OVERVIEW**

Master planned development (MPD) zoning districts are established through the approval of a zoning map amendment in accordance with Article 88-515. MPD zoning map amendments must be processed concurrently with a preliminary development plan application. Final development plan approval is required after approval of the zoning map amendment and preliminary development plan. This article sets forth the required review and approval procedures for MPD preliminary and final development plans.

### **88-520-02 PRELIMINARY AND FINAL DEVELOPMENT PLAN APPROVAL REQUIRED**

Approval of MPD preliminary and final development plans must occur before any building permit is issued and before any development takes place in a MPD district. Permits may be

issued for a development phase if a preliminary development plan has been approved for the entire MPD and a final development plan has been approved for the subject phase.

**88-520-03 PRELIMINARY DEVELOPMENT PLANS**

At the option of the applicant, the preliminary development plan may serve also as the preliminary subdivision plat if such intention is declared before the city plan commission's hearing and if the plans include all information required for preliminary plats and preliminary development plans.

**88-520-03-A.PREAPPLICATION CONSULTATION**

A preapplication consultation is required before filing of a MPD preliminary development plan application, in accordance with 88-505-02.

**88-520-03-B.APPLICATION FILING**

Complete applications for preliminary development plan approval must be filed with appropriate personnel in the city planning and development department at the same time that the MPD zoning map amendment application is filed. Preliminary development applications may be filed only by the subject landowner or the subject landowner's authorized agent.

**88-520-03-C.REVIEW AND REPORT—DEVELOPMENT REVIEW COMMITTEE**

The development review committee must review the proposed preliminary development plan in light of the MPD district provisions of Article 88-280 and the review criteria of 88-520-03-F. The city planning and development director must prepare a report and recommendation for the city plan commission based on the development review committee's review.

**88-520-03-D.HEARING AND RECOMMENDATION—CITY PLAN COMMISSION**

The city plan commission must hold a public hearing on the proposed MPD zoning map amendment and the preliminary development plan. Following the close of the hearing, the city plan commission must act by simple majority vote to recommend that the proposed MPD zoning map amendment and preliminary development plan be approved, approved with modifications or denied. If the city plan commission does not act on a proposed MPD zoning map amendment and preliminary development plan within 60 days of the date of the public hearing, the proposed amendment must be forwarded to the city council with no recommendation.

**88-520-03-E. HEARING AND FINAL ACTION—CITY COUNCIL**

1. After action by the city plan commission, the city council may convene its own public hearing on the proposed MPD zoning map amendment and preliminary development plan.
2. Following the close of the public hearing, the city council may act to approve the proposed MPD zoning map amendment and preliminary development plan, approve the proposed MPD zoning map amendment and preliminary development plan with modifications or deny the proposed MPD zoning map amendment and preliminary development plan. The city council may also return the application to the city plan commission for further consideration, together with a written explanation of the reasons for doing so.

3. The city council may act by a simple majority vote, except that when a valid protest petition has been submitted in accordance with 88-515-09 approval or approval with modifications requires a 2/3 majority vote of the full membership of the city council.

#### **88-520-03-F. REVIEW CRITERIA**

In reviewing and making decisions on proposed MPD rezonings and preliminary development plans, review and decision-making bodies must consider at least the following factors:

1. the preliminary development plan's consistency with any adopted land use plans for the area;
2. the preliminary development plan's consistency with the MPD district provisions of Article 88-280; and
3. the sufficiency of the terms and conditions proposed to protect the interest of the public and the residents of the MPD in the case of a plan that proposes development over a long period of time.

#### **88-520-03-G. LAPSE OF APPROVAL**

If the landowner fails to file an application or applications for final development plan approval within 2 years of the date of preliminary development plan approval, the approval will be deemed to have lapsed and the preliminary development plan will lapse and be of no further effect. For projects to be developed in phases, phase limits must be shown on the preliminary development plan. Decision-making bodies may impose conditions upon the phasing plan as deemed necessary to ensure the orderly development of the subdivision, including requirements for financial guarantees ensuring construction of all required improvements.

#### **88-520-03-H. FILING OF STATEMENT**

1. Within 30 days of approval of a preliminary development plan by the city council, the landowner must file with the appropriate recorder of deeds office a statement that such a plan: (1) has been filed with the city plan commission; (2) has been approved; (3) that the MPD preliminary development plan is applicable to certain specified legally-described land; and (4) that copies of the plan are on file in the city planning and development department. The statement recorded with the recorder of deeds must also specify the nature of the plan, the proposed density or intensity of land use and other pertinent information sufficient to notify any prospective purchasers or users of the land of the existence of such a plan.
2. The recorded statement must specify that the preliminary development plan will become binding upon all successors and assigns unless amended in conformance with this section. Major changes in the approved preliminary development plan may be made only after rehearing and re-approval of the preliminary development plan.
3. The landowner is responsible for all costs incurred in filing the statement.
4. No final development plan application will be considered complete and ready for processing until the landowner has provided the city planning and development director with a copy of the recorded statement required by this subsection. Such

copy must show the date of the filing and include the signature of the appropriate recorder of deeds.

**88-520-04 FINAL DEVELOPMENT PLANS**

**88-520-04-A.APPLICATION FILING**

Final development plan applications must be filed with the city planning and development department after approval of and before the lapse of a preliminary development plan.

**88-520-04-B.CONSISTENCY WITH PRELIMINARY DEVELOPMENT PLAN; MAJOR CHANGES**

A final development plan will not be considered complete and ready for processing if all approved conditions of approval have not been met or if the final development plan constitutes a major change from the approved preliminary development plan. A final development plan will be considered a major change from (and therefore inconsistent with) the approved preliminary development plan if it:

1. increases the proposed gross residential density by more than 2% or involves a reduction of 2% or more in the area set aside for open space, recreation area or other similar non-development area, or the substantial relocation of such areas;
2. increases by more than 10% the total floor area proposed for nonresidential uses;
3. increases by more than 5% the total ground area covered by buildings;
4. increases the height of buildings by more than 5 feet for areas within 100 feet of the outer boundaries of the MPD or by more than 15 feet in other areas; or
5. represents a material change to the preliminary development plan that creates a substantial adverse impact on surrounding property owners.

**88-520-04-C.PROCESSING OF MAJOR CHANGES**

If a final development plan is submitted that constitutes a major change to an approved preliminary development plan, no further processing of the final development plan may occur. The city planning and development director must notify the landowner that major changes may be made only after rehearing and re-approval of the preliminary development plan.

**88-520-04-D.REVIEW AND ACTION BY PLANNING DEPARTMENT; APPEALS**

1. The development review committee must review and take action on the final development plan. The development review committee must approve the final development plan if it complies with the approved preliminary development plan, all conditions of the preliminary development plan approval and all applicable standards of this zoning and development code. If the submitted final development plan does not comply with the approved preliminary development plan, any conditions imposed on that plan or any applicable standards of this development code, the development review committee must disapprove the final development plan and advise the landowner in writing of the specific reason for disapproval.
2. In the event that the development review committee does not approve the final development plan, the landowner may either: (1) resubmit the final development

plan to correct the plan's inconsistencies and deficiencies, or, (2) within 60 days of the date of notice of disapproval, appeal the decision of the development review committee to the city plan commission. In the event such an appeal is filed, a public hearing before the city plan commission must be scheduled with such notice as is required for the MPD rezoning and preliminary development plan approval.

#### **88-520-04-E. EFFECT OF APPROVAL**

1. A final development plan or any part thereof that has received final approval by the development review committee or, upon appeal, by the city plan commission, must be so certified by the city planning and development director, and must be filed with the appropriate recorder of deeds office immediately upon compliance with all conditions of approval. If the landowner chooses to abandon a final development plan or portion thereof after it has been given final approval, he or she must notify the city planning and development director.
2. The filing of a final development plan with the appropriate recorder of deeds office does not constitute the effective dedication of easements, rights-of-way or access control, nor will the filed plan be the equivalent of or an acceptable alternative for the final platting of land prior to the issuance of building permits in the MPD.

#### **88-520-04-F. LAPSE OF APPROVAL**

In the event the landowner fails to commence development shown on the final development plan within 2 years after final approval has been granted, then such final approval will lapse and be of no further effect unless the time period is extended by the city plan commission upon written application by the landowner. In the event of lapse of approval, approved MPD plans have no further effect and the regulations of the R-80 zoning district will govern those portion of the MPD for which plans have lapsed.

### **88-525 SPECIAL USE PERMITS**

#### **88-525-01 INTENT**

Special uses (uses that require special use permit approval prior to being allowed) are uses that, because of their widely varying land use and operational characteristics, require case-by-case review in order to determine whether they will be compatible with surrounding uses and development patterns. Case-by-case review is intended to ensure consideration of the special use's anticipated land use, site design and operational impacts. Special uses may or may not be approved after due consideration of the impact of such uses on the surrounding area and the public need for the use at the subject location.

#### **88-525-02 AUTHORITY TO FILE**

Special use permit applications may be filed only by the subject landowner or the subject landowner's authorized agent.

#### **88-525-03 PREAPPLICATION MEETING**

Before submitting a special use permit application, applicants must attend a preapplication meeting with city planning and development department staff, in accordance with 88-505-02.

**88-525-04 APPLICATION FILING**

Complete applications for special use permits must be filed with appropriate personnel in the city planning and development department.

**88-525-05 NOTICE OF HEARING**

**88-525-05-A. REQUIRED NEWSPAPER NOTICE**

Notice of required public hearings on special use permits must be published in the newspaper at least 15 days before the date of the public hearing. See 88-505-07.

**88-525-05-B. REQUIRED MAILED NOTICE**

Notice of required public hearings must be mailed to the subject property owner, any registered neighborhood organization and/or registered civic organization whose boundaries include the subject property, and all owners of property within 300 feet of the subject property. See 88-505-07.

**88-525-06 REVIEW AND REPORT—CITY PLANNING AND DEVELOPMENT DIRECTOR**

The city planning and development director must prepare a report and recommendation that evaluates the proposed special use permit in light of the approval criteria of 88-525-09.

**88-525-07 REVIEW AND RECOMMENDATION—CITY PLAN COMMISSION**

The city plan commission must review all special use applications and prepare a recommendation for consideration by the board of zoning adjustment. The city plan commission's recommendation may be to approve, approve with conditions or deny the application. The recommendation must be based on the approval criteria of 88-525-09.

**88-525-08 HEARING AND FINAL DECISION—BOARD OF ZONING ADJUSTMENT**

The board of zoning adjustment must hold a public hearing on the proposed special use permit. Following the close of the hearing, the board of zoning adjustment must act by simple majority vote to approve, approve with modifications or deny the special use permit.

**88-525-09 APPROVAL CRITERIA**

No special use application may be approved unless the board of zoning adjustment finds that the proposed use in its proposed location:

**88-525-09-A.** complies with all applicable standards of this zoning and development code;

**88-525-09-B.** is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community;

**88-525-09-C.** is compatible with the character of the surrounding area in terms of site planning and building scale and project design;

**88-525-09-D.** is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and

**88-525-09-E.** will not have a significant adverse impact on pedestrian safety or comfort.

**88-525-10 NOTICE OF DECISION**

Within 10 days after a final decision is made by the board of zoning adjustment on a special use application, copies of the written decision must be sent to the applicant.

**88-525-11 REHEARING**

The board of zoning adjustment may grant a rehearing on any special use application if the rehearing request includes new evidence to be presented that was not available at the time of the original hearing or when the board of zoning adjustment determines that good cause has been shown for a rehearing. The request for a rehearing must be made within 30 days of the date that notice of decision was sent to the applicant. No more than one rehearing is permitted.

**88-525-12 LAPSE OF APPROVAL**

**88-525-12-A.** An approved special use permit will lapse and have no further effect 2 years after its effective date unless:

1. a building permit has been issued and construction diligently pursued;
2. a certificate of occupancy has been issued; or
3. the building or use is established; or
4. the board of zoning adjustment extends the expiration period by no more than one year.

**88-525-12-B.** A special use permit also lapses upon revocation of a building permit for violations of conditions of approval.

**88-525-13 TRANSFERABILITY**

The status of a special use is not affected by changes of tenancy, ownership, or management.

**88-525-14 AMENDMENTS**

**88-525-14-A. MAJOR AMENDMENTS**

Major amendments to approved special use permits must be reviewed and approved in accordance with the procedures of Section 88-525 as a new application. Major amendments include any of the following:

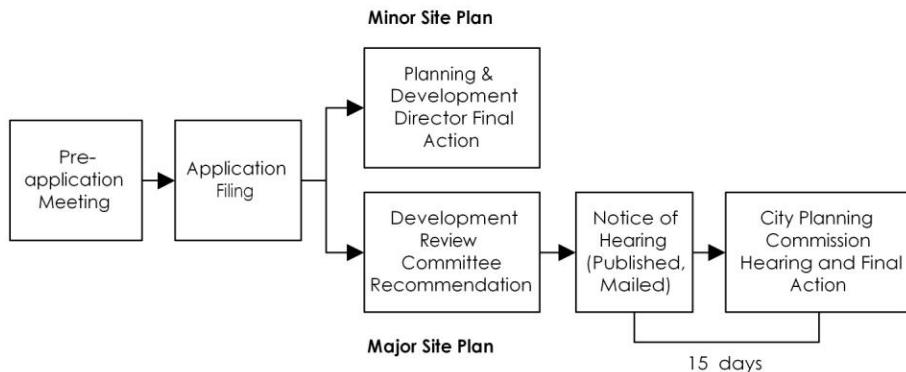
1. an increase in building coverage by more than 10%, cumulative;
2. an increase in the cumulative floor area by more than 10% or 1,500 square feet, whichever is less;
3. an increase in building height by more than 10% or 6 feet, whichever is less;
4. an increase in the cumulative impervious surface coverage by more than 10% or 2,000 square feet, whichever is less;
5. extensive site modification involving location of buildings, razing and reconstruction of approved uses;
6. an increase in the number of dwelling units or residential occupancy by more than 10%; or

7. any change that the city planning and development director determines will have impacts that warrant full review of the application in accordance the customary special use permit procedures.

#### **88-525-14-B. MINOR AMENDMENTS**

Any application that is not classified as a major amendment will be considered a minor amendment. Minor amendments may be approved by the city planning and development director.

### **88-530 SITE PLAN REVIEW**



#### **88-530-01 INTENT**

Site plan review is a procedure that allows for review of detailed development plans to determine if such plans comply with city regulations and policies. The process is intended to ensure compliance with the standards of this zoning and development code; minimize land use conflicts; and encourage the compatible arrangement of buildings, off-street parking, lighting, landscaping, stormwater facilities, vehicle and pedestrian access routes and other site features in a manner that will promote public safety and general welfare.

#### **88-530-02 APPLICABILITY**

##### **88-530-02-A. MAJOR SITE PLAN REVIEW**

1. Major site plan review and approval is required in R or B zoning districts for any residential development containing more than 100 dwelling units.
2. Major site plan review and approval is required in B zoning districts for any building to be occupied by any retail sales-related use with a gross floor area of 75,000 square feet or more. For purposes of this paragraph, "retail sales-related uses" include general retail sales; food and beverage retail sales; and other uses that are primarily involved in the sales of goods to the general public.
3. Major site plan review and approval is required in B zoning districts for any commercial development with a site area of 10 acres or more. For purposes of this paragraph, "commercial development" includes development intended to accommodate any use classified in the commercial use group.
4. Major site plan review and approval is required for any industrial development on M-zoned land with a net site area of 5 acres or more if the lot on which the

development is located is within 200 feet of any residential district. Otherwise, major site plan review and approval is required only for industrial development on M-zoned land with a site area of 10 acres or more.

5. Major site plan review and approval is required for development on D-zoned land that exceeds 180 feet in height or includes above-grade parking for more than 100 vehicles.
6. Major site plan review and approval is required whenever multiple principal buildings are proposed to be located on a single lot.
7. Major site plan review and approval is required for any new development with a designated light rail zone or overlay district as may be established in accordance with procedures of Section 88-515.

#### **88-530-02-B. MINOR SITE PLAN REVIEW**

Minor site plan review is required for all development that is not exempt under 88-530-03 and that is not subject to major site plan review under 88-530-02-A.

#### **88-530-03 EXEMPTION**

The site plan review procedures of this article do not apply to detached houses or to any developments for which plans have been reviewed and approved pursuant to the special use permit, urban redevelopment, or other equivalent development plan procedures of this zoning and development code. This provision is intended to clarify that site plan review is not required for projects that have received equivalent review through the city's other development plan review procedures. Existing approved development plans for planned districts are also exempt.

#### **88-530-04 AUTHORITY TO FILE**

Site plan review applications may be filed only by the subject landowner or the subject landowner's authorized agent.

#### **88-530-05 CONCURRENT PROCESSING OF SITE PLANS AND SUBDIVISION PLATS**

Site plans and preliminary subdivision plats may be combined in a single plan and processed concurrently if all information required for both types of plans is provided as part of the combined application.

#### **88-530-06 APPLICATION FILING**

Complete applications for site plan review must be filed with appropriate personnel in the city planning and development department.

#### **88-530-07 DECISION-MAKING AUTHORITY**

##### **88-530-07-A. MINOR SITE PLAN REVIEW**

The planning and development director has final decision-making authority on minor site plan applications. No public hearing is required.

##### **88-530-07-B. MAJOR SITE PLAN REVIEW**

The city plan commission has final decision-making authority on major site plan applications. At least one public hearing is required.

## **88-530-08 NOTICE OF HEARING**

### **88-530-08-A.REQUIRED NEWSPAPER NOTICE**

Notice of required public hearings on major site plans must be published in the newspaper at least 15 days before the date of the public hearing. See 88-505-07.

### **88-530-08-B.REQUIRED MAILED NOTICE**

Notice of required public hearings must be mailed to the subject property owner, any registered neighborhood organization and/or registered civic organization whose boundaries include the subject property, and all owners of property within 300 feet of the subject property. See 88-505-07.

### **88-530-08-C.COURTESY POSTED NOTICE**

For major site plan review, applicants are responsible for providing additional courtesy notice to interested parties by posting a sign on the subject property visible from each abutting public right-of-way. Signs must be posted by the applicant at least 15 days before the city plan commission public hearing.

## **88-530-09 REVIEW AND ACTION**

### **88-530-09-A.MINOR SITE PLAN REVIEW**

The planning and development director must review each complete application for minor site plan approval and take one of the following actions:

1. approve the application;
2. identify those revisions or modifications that would allow approval of the application;
3. approve the application with conditions;
4. disapprove the application; or
5. forward the application to the city plan commission for review and action.

### **88-530-09-B.MAJOR SITE PLAN REVIEW**

1. The development review committee must review each complete application for major site plan approval and recommend that the city plan commission take one of the following actions:
  - (a) approve the application;
  - (b) identify those revisions or modifications that would allow approval of the application;
  - (c) approve the application with conditions; or
  - (d) disapprove the application.
2. The city plan commission must hold a public hearing on the major site plan application and take one of the following actions:
  - (a) approve the application;

- (b) identify those revisions or modifications that would allow approval of the application;
- (c) approve the application with conditions;
- (d) disapprove the application or
- (e) act to continue the matter for further deliberation.

#### **88-530-10 APPROVAL CRITERIA**

In order to be approved, a site plan must comply with all of the following criteria:

**88-530-10-A.**the plan must comply with all standards of the this zoning and development code and all other applicable city ordinances and policies (Note: this provision is not intended to prohibit an applicant from seeking a variance or other form of relief authorized under this zoning and development code or other applicable ordinances);

**88-530-10-B.**the proposed use must be allowed in the district in which it is located;

**88-530-10-C.**vehicular ingress and egress to and from the site, and circulation within the site must provide for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways as well; and

**88-530-10-D.**the plan must provide for the safe, efficient and convenient movement of pedestrians on the subject site.

#### **88-530-11 APPEALS**

**88-530-11-A.**Appeals of the planning and development director's decision on a minor site plan application may be taken to the city plan commission by filing a notice of appeal with the city planning and development director. Appeals must be filed within 15 calendar days of the date of the planning and development director's decision.

**88-530-11-B.**Appeals of the city plan commission's decision, in the case of major site plan applications or minor site plan applications appealed to the city plan commission, may be appealed to the city council by filing a notice of appeal with the city planning and development director. Appeals must be filed within 15 calendar days of the city plan commission decision.

#### **88-530-12 RIGHT TO APPEAL**

The following persons and entities have standing to appeal the action of the planning and development director or city plan commission on an application for site plan approval:

**88-530-12-A.**the applicant; or

**88-530-12-B.**the party aggrieved by the decision.

#### **88-530-13 ACTION ON APPEAL**

In the case of appeals, the city plan commission or city council, as applicable, must consider the appealed decision as a new matter. After considering the matter, the city plan commission or city council may act on the original site plan application. The procedure is to be the same as required of the original action.

## **88-530-14 AMENDMENTS**

### **88-530-14-A. MAJOR AMENDMENTS**

Major amendments to approved site plans must be reviewed and approved in accordance with the procedures of this article. Major amendments include any of the following:

1. an increase in building coverage by more than 10%, cumulative;
2. an increase in the cumulative floor area by more than 10% or 5,000 square feet, whichever is less;
3. an increase in building height by more than 10% or 6 feet, whichever is less;
4. an increase in the cumulative impervious surface coverage by more than 10% or 2,000 square feet, whichever is less;
5. extensive site modification involving location of buildings, razing and reconstruction of approved uses;
6. an increase in the number of dwelling units or residential occupancy by more than 10%;
7. a change in an approved phasing plan; or
8. any change that the city planning and development director determines will have impacts that warrant full review of the application in accordance the customary site plan review procedures.

### **88-530-14-B. MINOR AMENDMENTS**

Any application that is not classified as a major amendment will be considered a minor amendment. Minor amendments may be approved by the city planning and development director.

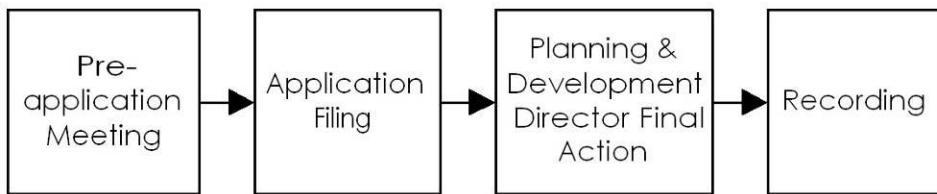
## **88-530-15 LAPSE OF APPROVAL**

**88-530-15-A.** An approved site plan will lapse and have no further effect 2 years after its effective date unless:

1. building permits have been issued and construction diligently pursued for the development or respective plans;
2. certificates of occupancy have been issued for the development or respective plans;
3. the use is established;
4. the city plan commission extends the expiration period by no more than one year; or
5. a phasing plan with different lapse of approval provisions is expressly approved as part of the site plan approval.

**88-530-15-B.** An approved site plan will also lapse and be of no further effect upon abandonment of the project or revocation of a building permit.

## 88-535 MINOR SUBDIVISIONS



### 88-535-01 APPLICABILITY

All of the following may be reviewed and approved in accordance with the minor subdivision procedures of this article.

#### 88-535-01-A.LOT SPLITS

The city planning and development director is authorized to approve a minor subdivision plat when the city planning and development director determines that the proposed subdivision meets all of the following criteria:

1. the proposed subdivision contains not more than 5 lots;
2. each lot complies with all the subdivision design and improvement standards of this zoning and development code (Article 0) except that the requirement for street improvements may be waived when, in the opinion of the city planning and development director, such improvements do not already exist in the surrounding area, when the installation of such improvements does not serve an obvious public need and when such a waiver will not be contrary to the public interest;
3. the proposed subdivision is not in conflict with adopted plans or other provisions of this zoning and development code; and
4. all required dedications of public rights-of-way and easements, if any, are made and accepted by the city council.

#### 88-535-01-B.LOT LINE ADJUSTMENTS

The city planning and development director is authorized to approve a minor subdivision plat for a lot line adjustment between owners of adjoining properties when the city planning and development director determines that all of the following criteria are met:

1. the lot line adjustment is solely for the purpose of an adjustment in boundaries;
2. no additional lots are created by the lot line adjustment; and
3. all lots remaining after a lot line adjustment comply with applicable lot and building standards of the underlying zoning district.

#### 88-535-01-C.LOT CONSOLIDATIONS

The city planning and development director is authorized to approve a minor subdivision plat for a lot consolidation when the city planning and development director determines that the proposed consolidation is of lots under a single ownership. (Note: lot consolidations may also be accomplished by filing a deed combination in the assessor's office)

**88-535-01-D. CONDOMINIUM PLATS**

The city planning and development director is authorized to approve a condominium plat when the city planning and development director determines that the condominium plat complies with all of the following requirements:

1. the plat must comply with the preliminary plat and/or plan that was approved for the overall development, including any limits on the maximum number of condominium units allowed;
2. the plat must conform to the requirements of Section 448.2-109, RSMo;
3. the plat must show the footprint of the buildings and the building identification system;
4. the plat must include a permanent benchmark and references to the survey monuments by a metes and bounds description;
5. the plat must include the owner's signature;
6. the plat must include the names, addresses and phone numbers of the owners and the company preparing the condominium plat;
7. the plat must include the surveyor's seal, signature and certification;
8. the plat must include the exact dimensions of the condominium units;
9. the plat must show the location of the common elements and limited common elements;
10. the plat submission must include a chronology chart referencing the building number, plat book and page, and date of any previously recorded condominium plats when there are multiple condominium plats;
11. the plat submission must include the declaration of condominium or amendment to the declaration;
12. the plat may not be approved until all required dedications of public rights-of-way and easements, if any, are made and accepted by the city council; and
13. the plat may not be approved until the city planning and development department has received confirmation that any required parkland or private open space dedication or payments in lieu of parkland have been completed.

**88-535-01-E. OTHER MINOR SUBDIVISIONS**

The city planning and development director is also authorized to approve the further subdividing of a platted lot or lots if the further subdivision complies with the recorded plat and any applicable plat restrictions such as those related to the maximum number of dwelling units, and the extension of public facilities.

**88-535-02 AUTHORITY TO FILE**

Minor subdivision applications may be filed only by the subject landowner or the subject landowner's authorized agent.

### **88-535-03 APPLICATION FILING**

Complete applications for minor subdivisions must be filed with appropriate personnel in the city planning and development department. Minor subdivision surveys must contain all graphical submittal data as required for final plats.

### **88-535-04 REVIEW AND DECISION—CITY PLANNING AND DEVELOPMENT DIRECTOR**

The city planning and development director must review each application for minor subdivision approval and act to approve, approve with conditions, deny the application or refer the application to the city plan commission. If referred to the city plan commission, the city plan commission may act to approve, approve with conditions, or deny the application. The city plan commission may also act to continue the matter for further deliberation.

### **88-535-05 RECORDING**

Upon approval of a minor subdivision, the land survey/condominium plat must be recorded in the office of the appropriate county recorder of deeds. Recording must occur within 90 days of the date of approval by the city planning and development director.

### **88-535-06 APPEALS**

If a request for minor subdivision approval is denied by the city planning and development director, the applicant may appeal the city planning and development director's decision by filing an application for review by the city plan commission.

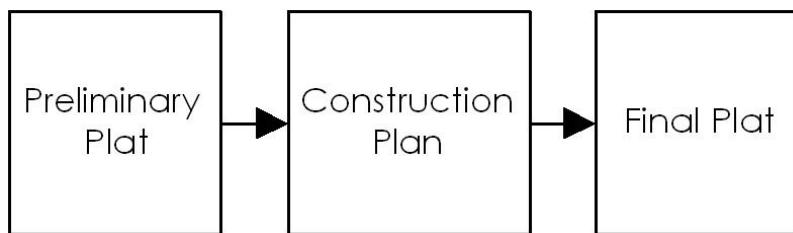
## **88-540 MAJOR SUBDIVISIONS GENERALLY**

### **88-540-01 APPLICABILITY**

Any subdivision that does not meet the criteria for processing as a minor subdivision (See 88-535) is a major subdivision and must be processed in accordance with the major subdivision procedures.

### **88-540-02 OVERVIEW OF PROCESS**

A major subdivision requires a 3-step review and approval process. First, a preliminary plat must be reviewed and approved in accordance with 88-545. If the preliminary plat is approved, the applicant may then apply for approval of a construction plan in accordance with 88-550 and for approval of a final plat for the subdivision or phase of the subdivision, in accordance with 0.



## **88-545 PRELIMINARY SUBDIVISION PLAT**

### **88-545-01 AUTHORITY TO FILE**

Preliminary plat applications may be filed only by the subject landowner or the subject landowner's authorized agent.

### **88-545-02 APPLICATION FILING**

Complete applications for preliminary plat approval must be filed with appropriate personnel in the city planning and development department.

### **88-545-03 CONCURRENT PROCESSING OF SUBDIVISION PLATS AND SITE PLANS**

Site plans and preliminary subdivision plats may be combined in a single plan and processed concurrently if all information required for both types of plans is provided as part of the combined application.

### **88-545-04 REVIEW AND FINAL DECISION—DEVELOPMENT REVIEW COMMITTEE**

**88-545-04-A.** The development review committee is authorized to approve preliminary plat applications that do not include requests for waivers or modifications.

**88-545-04-B.** Upon receipt and review of a complete preliminary plat application, the development review committee must review the preliminary plat and, based on the plat's compliance with the approval criteria of 88-545-06, act by simple majority vote to approve the preliminary plat, approve the preliminary plat with conditions or recommend that the preliminary plat be disapproved.

**88-545-04-C.** If the development review committee recommends that the preliminary plat be disapproved, the preliminary plat must be forwarded to the city plan commission for a hearing and final decision in accordance with 88-545-05.

**88-545-04-D.** Applicants may request that any preliminary plat approved with conditions be forwarded to the city plan commission for a hearing and final decision in accordance with 88-545-05 if such request is made within 15 days of the date of development review committee action on the preliminary plat.

**88-545-04-E.** If the preliminary plat application includes requests for waivers or modifications, the development review committee must review the preliminary plat and, based on the plat's compliance with the approval criteria of 88-545-06, recommend that city plan commission approve the preliminary plat, approve the preliminary plat with conditions or disapprove the preliminary plat.

### **88-545-05 HEARING AND FINAL DECISION—CITY PLAN COMMISSION**

**88-545-05-A.** The city plan commission has final decision-making authority on preliminary plat applications that include requests for waivers or modifications.

**88-545-05-B.** The city plan commission also has final decision-making authority on preliminary plats recommended for disapproval by the development review committee and on preliminary plats forwarded to city plan commission at the request of the applicant. The city plan commission must act on preliminary plat applications as a new matter.

**88-545-05-C.** Preliminary plat applications that require action by the city plan commission require at least one public hearing.

**88-545-05-D.** Notice of required public hearings must be mailed to the subject property owner, any registered neighborhood organization and/or registered civic organization whose boundaries include the subject property, and all owners of property within 300 feet of the subject property. See 88-505-07.

**88-545-05-E.** Following action by the development review committee, the city plan commission must review the preliminary plat and the development review committee's action and, based on the plat's compliance with the approval criteria of 88-545-06, act by simple majority vote to approve the preliminary plat, approve the plat with conditions or disapprove the plat.

**88-545-05-F.** If the city plan commission disapproves the preliminary plat or approves the plat with conditions or modifications, the applicant may appeal the city plan commission's decision to the city council. Appeals of the city plan commission's decision must be filed with the city planning and development director within 15 days of the date of city plan commission action on the preliminary plat. In the case of such appeal, the city council may act on the preliminary plat application as a new matter and, by simple majority vote, approve, approve with conditions or deny the preliminary plat application. The requirements for hearings, notices and approval criteria are the same as required of the original action before the city plan commission.

#### **88-545-06 APPROVAL CRITERIA**

No preliminary plat may be approved unless the decision-making body finds that the proposed subdivision conforms with all adopted plans of the city and complies with all applicable standards of this zoning and development code.

#### **88-545-07 EFFECT OF APPROVAL**

Approval of a preliminary plat constitutes acceptance of the overall general planning concepts for the subdivision and is a prerequisite for the filing of a construction plan and final plat. After approval of the preliminary plat the applicant may proceed to the construction plan and final plat stages of the major subdivision approval process.

#### **88-545-08 PHASING**

For subdivisions to be developed in phases, phase limits must be shown on the preliminary plat. Decision-making bodies may impose conditions upon the phasing plan for the subdivision it deems necessary to ensure the orderly development of the subdivision, including requirements for financial guarantees ensuring construction of all required improvements.

#### **88-545-09 LAPSE OF APPROVAL**

Once a preliminary plat is approved, applicants have 2 years from the date of approval to submit a final subdivision plat for the subdivision or for an approved phase of the subdivision. If a final plat is not submitted within the required 2-year period, the preliminary plat approval will lapse and be of no further effect. The city plan commission is authorized to grant a one-time extension of the 2-year period, for not to exceed one year. This extension may be granted only if the applicant requests the extension before the approval lapses.

## **88-550 CONSTRUCTION PLANS (SUBDIVISION IMPROVEMENTS)**

### **88-550-01 TIMING**

After approval of the preliminary plat and concurrently with submittal of the final plat or after final plat approval, the applicant must submit detailed construction plans in accordance with the requirements of this article.

### **88-550-02 RESPONSIBILITY FOR PREPARATION**

Construction plans for streets, utilities, and other public improvements required within the proposed subdivision must be prepared by an engineer who is licensed in the State of Missouri.

### **88-550-03 APPLICATION FILING**

A complete set of construction plans must be submitted to the City Planning and Development Director.

### **88-550-04 REVIEW AND FINAL DECISION—CITY PLANNING AND DEVELOPMENT DIRECTOR**

**88-550-04-A.** The city planning and development director must review construction plans to determine if the plans comply with all applicable regulations of this zoning and development code and the city's *Standards, Specifications and Design Criteria*.

**88-550-04-B.** If the city planning and development director determines that the construction plans do not comply with applicable regulations and standards, the city planning and development director is authorized to require that modifications be made to bring the construction plans into compliance with such regulations and standards.

### **88-550-05 CONSTRUCTION SCHEDULE**

Prior to approval of the construction plans, the applicant must submit to the City Planning and Development Director and to all approving agencies and to public utility companies that will service the subdivision a general schedule of the timing and sequence for construction of all required improvements.

### **88-550-06 TIMING OF IMPROVEMENTS**

Except upon the written approval of the Director of City Planning and Development, no grading, removal of trees or other vegetation, land filling, construction of improvements, or other material change, except for the purpose of aiding in preparation of final engineering drawings or plans, may begin on the subject property until the applicant has:

**88-550-06-A.** received a site disturbance permit for clearing and grading; or

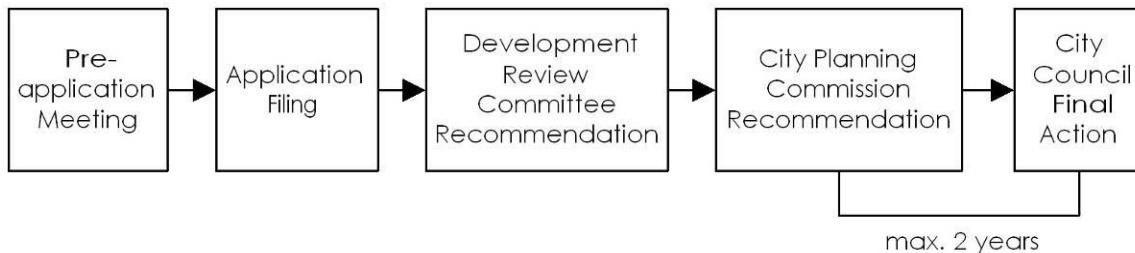
**88-550-06-B.** received a construction permit from the City Planning and Development Director.

### **88-550-07 DEVELOPMENT IN PHASES**

When a subdivision is to be developed in one or more phases, developers must install public improvements or post financial guarantees for each phase. The city may require public improvements to be installed or financial guarantees to be posted for areas beyond an individual

phase if the city determines that such improvements or guarantees are necessary to ensure the relative self-sufficiency of the development phase, pending completion of the entire subdivision.

## **88-555 FINAL SUBDIVISION PLATS**



### **88-555-01 APPLICATION FILING**

Complete applications for final plat approval must be filed with appropriate personnel in the city planning and development department before the preliminary plat expiration date (see 88-545-09)

### **88-555-02 REVIEW AND RECOMMENDATION—DEVELOPMENT REVIEW COMMITTEE**

The development review committee must review the final plat and, based on the plat's compliance with the approval criteria of 88-555-05, recommend that the final plat be approved, approved with conditions or disapproved.

### **88-555-03 REVIEW AND RECOMMENDATION—CITY PLAN COMMISSION**

Following action by the development review committee, the city plan commission must review the final plat and the development review committee's action and, based on the plat's compliance with the approval criteria of 88-555-05, recommend that the final plat be approved, approved with conditions or disapproved. The date of the regular meeting of the city plan commission, including any adjourned date, at which time review of the final plat was conducted constitutes the official submittal date of the plat. The city plan commission must take action on the final plat within 60 days of the official submittal date.

### **88-555-04 REVIEW AND ACTION—CITY COUNCIL**

**88-555-04-A.** Within 2 years of the date of the city plan commission's recommendation, the final plat must be submitted to the city council. Failure to submit the final plat within this 2-year period will cause the city plan commission's recommendation to lapse and be of no further effect. In this event, resubmission to the city plan commission will be required before the final plat may be submitted to the city council.

**88-555-04-B.** Following action by the city plan commission, the city council must review the final plat and the recommendations of the development review committee and city plan commission and, based on the plat's compliance with the approval criteria of 88-555-05, act by simple majority vote to approve the final plat, approved with final plat with conditions or disapprove the plat.

### **88-555-05 APPROVAL CRITERIA**

No final plat may be approved unless the decision-making body finds that the proposed subdivision conforms with the approved preliminary plat with all applicable regulations and standards of this zoning and development code.

### **88-555-06 EFFECT OF APPROVAL**

Approval of a final plat confers upon the developer the right to record the approved plat in the office of the appropriate county recorder of deeds. No lot within the subdivision may be sold until the final plat has been approved by the city council and the plat has been officially recorded.

### **88-555-07 PREREQUISITES TO RECORDING A FINAL PLAT**

Prior to recording a final plat, the developer must install all required public improvements or post a financial guarantee of performance in a form established by the city.

### **88-555-08 LAPSE OF APPROVAL**

**88-555-08-A.** The applicant must file the final plat with the appropriate county recorder of deeds within 2 years of the date of approval of the final plat by the city council.

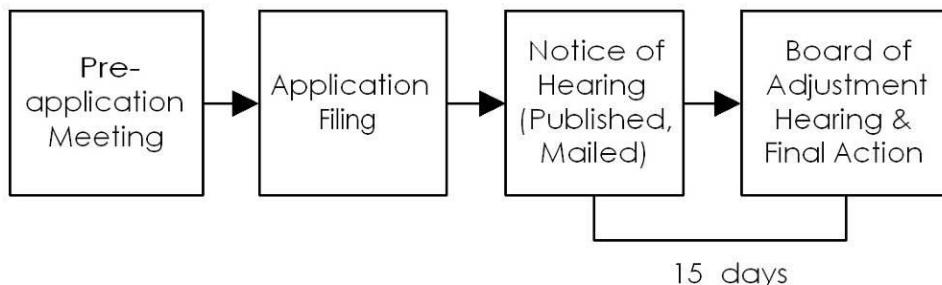
**88-555-08-B.** If the applicant fails to record the final plat within the required timeframe, the city council's final plat approval will lapse and be of no further effect, in which case the final plat approval process must be repeated before recording the plat.

### **88-555-09 DIGITAL FILES**

**88-555-09-A.** When an application is filed for final plat approval, the applicant must submit a digital file of the plat in addition to the paper copies of the plat. The digital file must be submitted at the same time of the application and again at the time of the submission of signed copies of the final plat for recording.

**88-555-09-B.** The submittal of digital plat files must conform to the formatting standards, layering system and text styles as provided by the Director of City Planning and Development.

## **88-565 ZONING VARIANCES**



**88-565-01 INTENT**

Zoning variances are intended to address unnecessary hardships or practical difficulties resulting from strict application of zoning-related standards.

**88-565-02 APPLICABILITY; AUTHORIZED ZONING VARIANCES**

**88-565-02-A.** Unless listed in subsection 88-565-02-B below, the board of zoning adjustment is authorized to grant a variance to any regulation in this zoning and development code.

**88-565-02-B.** The zoning variance procedures of this article may not be used to:

1. permit a principal use in a zoning district that is not otherwise allowed in that district;
2. waive, modify or otherwise vary any of the subdivision design or improvement standards of this Chapter;
3. waive, modify or amend any definition or use classification;
4. waive, modify or otherwise vary any of the review and approval procedures; or
5. waive, vary, modify or otherwise override a condition of approval or requirement imposed by another decision-making body.

**88-565-03 APPLICATION FILING**

Complete applications for zoning variances must be filed with appropriate personnel in the city planning and development department.

**88-565-04 NOTICE OF HEARING**

**88-565-04-A. REQUIRED NEWSPAPER NOTICE**

Notice of required public hearings on zoning variances must be published in the newspaper at least 15 days before the date of the public hearing. See 88-505-07.

**88-565-04-B. REQUIRED MAILED NOTICE**

Notice of required public hearings must be mailed to the subject property owner, any registered neighborhood organization and/or registered civic organization whose boundaries include the subject property, and all owners of property within 300 feet of the subject property. See 88-505-07.

**88-565-04-C. COURTESY POSTED NOTICE**

Applicants are responsible for providing additional courtesy notice to interested parties by posting a sign on the subject property visible from each abutting public right-of-way. Signs must be posted by the applicant at least 15 days before the public hearing.

**88-565-05 HEARING AND FINAL DECISION**

**88-565-05-A.** The board of zoning adjustment must hold at least one public hearing on the proposed zoning variance.

**88-565-05-B.** Following the close of the hearing, at the same or subsequent meeting, the board of zoning adjustment must take action to approve, approve with conditions or deny the proposed zoning variance.

**88-565-05-C.** A concurring vote of at least 4 members of the board of zoning adjustment is required to approve a zoning variance.

#### **88-565-06 REVIEW CRITERIA**

Zoning variances may be approved by the board of zoning adjustment when they find substantial evidence in the official record that:

**88-565-06-A.** strict application of one or more standards or requirements of this zoning and development code would result in unnecessary hardships or practical difficulties for the subject property and that such unnecessary hardships or practical difficulties are not generally applicable to other property in the same zoning district;

**88-565-06-B.** the zoning variance is generally consistent with all relevant purposes and intents of this zoning and development code; and

**88-565-06-C.** the zoning variance will result in substantial justice being done, considering both the public benefits intended to be secured by this zoning and development code and the individual hardships or practical difficulties that will be suffered if the zoning variance request is denied.

#### **88-565-07 FACTORS TO BE CONSIDERED**

In acting on requested zoning variances, the board of zoning adjustment must also consider the following factors:

**88-565-07-A.** whether the undue hardship or practical difficulties are the result of the actions of the property owner or applicant, their agent, employee, or contractor;

**88-565-07-B.** whether granting the requested zoning variance will result in advantages or special privileges to the applicant or property owner that this zoning and development code denies to other land, structures, or uses in the same district;

**88-565-07-C.** whether the requested zoning variance is the minimum zoning variance necessary to provide relief;

**88-565-07-D.** whether the zoning variance, if allowed, will substantially interfere with or injure the rights of others whose property would be affected by allowance of the zoning variance; and

**88-565-07-E.** whether the zoning variance is being requested due to an intentional violation of this zoning and development code.

#### **88-565-08 NOTICE OF DECISION**

Within 10 days after a final zoning variance decision is made by the board of zoning adjustment, copies of the written decision must be sent to the applicant.

#### **88-565-09 REHEARING**

The board of zoning adjustment may grant a rehearing on any zoning variance application if the rehearing request includes new evidence to be presented that was not available at the time of the

original hearing or when the board of zoning adjustment determines that good cause has been shown for a rehearing. The request for a rehearing must be made within 30 days of the date that notice of decision was sent to the applicant. No more than one rehearing is permitted.

### **88-565-10 LAPSE OF APPROVAL**

**88-565-10-A.** An approved zoning variance will lapse and have no further effect 2 years after its effective date unless:

1. a building permit has been issued and construction diligently pursued;
2. a certificate of occupancy has been issued; or
3. the building or use is established; or
4. the board of zoning adjustment extends the expiration period by no more than one year.

**88-565-10-B.** A zoning variance also lapses upon revocation of a building permit for violations of conditions of approval.

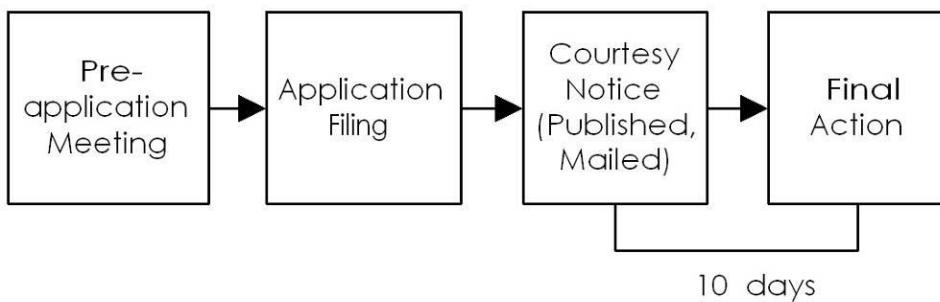
### **88-565-11 TRANSFERABILITY**

The status of a zoning variance is not affected by changes of tenancy, ownership, or management.

### **88-565-12 AMENDMENTS**

A request for changes in conditions of approval of a zoning variance, or a change to development plans that would affect a condition of approval, must be processed as a new application.

## **88-570 ADMINISTRATIVE ADJUSTMENTS**



### **88-570-01 INTENT**

Administrative adjustments are intended to provide a streamlined approval procedure for minor modifications of selected zoning and development code standards. Administrative adjustments are further intended to:

**88-570-01-A.** allow development that is in keeping with the general purpose and intent of development regulations and the established character of the area in which it is located;

**88-570-01-B.** provide flexibility that will help promote rehabilitation and reuse of existing buildings when such flexibility will not adversely affect nearby properties or neighborhood character; and

**88-570-01-C.** provide flexibility for new construction when necessary to address unusual development conditions when such flexibility is in keeping with the general purpose and intent of development regulations and will not adversely affect other properties or surrounding neighborhood character.

**88-570-02 APPLICABILITY; AUTHORIZED ADMINISTRATIVE ADJUSTMENTS**

The city planning and development director has the authority to review and approve the following administrative adjustments:

**88-570-02-A.P/O DISTRICT—BUILDING LOCATION STANDARDS**

1. The city planning and development director is authorized to approve an administrative adjustment to the building placement standards of 88-230-03-A.
2. Such an administrative adjustment may be approved only when the city planning and development director determines that useable public spaces or pedestrian amenities (e.g., extra-wide sidewalk, plaza with seating or outdoor dining area) will be provided between the building and the street.

**88-570-02-B.P/O DISTRICT—TRANSPARENT WINDOW STANDARDS**

1. The city planning and development director is authorized to approve an administrative adjustment to the ground-floor transparency standards of 88-230-03-B.
2. Such an administrative adjustment may be approved only when the city planning and development director determines that (1) such a reduction will be offset by the provision of other pedestrian amenities or building or site design features that are not otherwise required by this zoning and development code.

**88-570-02-C.P/O DISTRICT—DOOR AND ENTRANCE STANDARDS**

1. The city planning and development director is authorized to approve an administrative adjustment to the door and entrance standards of 88-230-03-C.
2. Such an administrative adjustment may be approved only when the city planning and development director determines that a safe pedestrian walkway not exceeding 20 feet in length is provided between the building entrance and the sidewalk abutting street.

**88-570-02-D.P/O DISTRICT—DRIVEWAY AND VEHICLE ACCESS STANDARDS**

1. The city planning and development director is authorized to approve an administrative adjustment to the driveway and vehicle access standards of 88-230-03-E.
2. Such an administrative adjustment may be approved only when the city planning and development director determines, in consultation with other appropriate city officials that access to the subject lot cannot be safely accommodated by alley or side (non-pedestrian) street access

**88-570-02-E. GROUND-FLOOR COMMERCIAL SPACE**

The city planning and development director is authorized to approve an administrative adjustment to reduce the ground-floor commercial floor area requirement of 88-120-07 by up to 20%.

**88-570-02-F. BICYCLE PARKING**

1. The city planning and development director is authorized to approve an administrative adjustment reducing the number of bicycle spaces required under 88-420-06.
2. Such an administrative adjustment may be approved only when the city planning and development director determines that use will not generate any bicycle traffic or that it would be impossible to provide bicycle parking at the subject location.

**88-570-02-G. LANDSCAPING**

The city planning and development director is authorized to approve administrative adjustments to otherwise applicable landscape standards, as expressly authorized in 88-425-12.

**88-570-02-H. MINOR AMENDMENTS TO APPROVED DEVELOPMENT PLANS**

Unless otherwise expressly stated in this zoning and development code or as part of the final action to approve a development plan, the city planning and development director is authorized to approve an administrative adjustment allowing minor amendments to approved development plans. For the purpose of this provision, minor amendments are changes that

1. do not increase building coverage by more than 10%, cumulative;
2. do not increase the cumulative floor area by more than 10% or 1,500 square feet, whichever is less;
3. do not increase building height by more than 10% or 6 feet, whichever is less;
4. do not increase the total cumulative impervious surface coverage by more than 10% or 2,000 square feet, whichever is less;
5. do not involve extensive site modifications;
6. do not increase the number of dwelling units or residential occupancy by more than 10%; or
7. do not, in the determination of the city planning and development director, have impacts that warrant city plan commission, city council or board of zoning adjustment review of the application.

**88-570-02-I. TRAIL ENCROACHMENTS INTO STREAMSIDE BUFFER ZONE**

The city planning and development director is authorized to approve an administrative adjustment allowing paved or unpaved trails to encroach into the streamside zone (See 88-415-05-A.1). Administrative adjustments for (paved or unpaved) trail encroachments into the streamside zone may be approved only when the city planning and development director determines that alternative alignments are not feasible due to because of topography, the presence of existing structures such as bridges or flood control levees, the inability to acquire property to accommodate other trail alignments, or when that the trail represents the

termini of existing trails and trail rights-of-way. Streambanks and natural resource areas affected by allowed encroachments must be stabilized in accordance with the city's *Standards, Specifications and Design Criteria*, and natural resources must be mitigated in accordance with 88-415-07-C and 88-415-08-B.4.

**88-570-02-J. NONCONFORMITIES**

The city planning and development director is authorized to approve an administrative adjustment allowing expansion of a nonconforming use into another part of the same building, in accordance with Section 0.

**88-570-03 APPLICATION FILING**

Complete applications for administrative adjustments must be filed with appropriate personnel in the city planning and development department.

**88-570-04 NOTICE**

**88-570-04-A. REQUIRED MAILED NOTICE**

Notice of required public hearings must be mailed to the subject property owner, any registered neighborhood organization and/or registered civic organization whose boundaries include the subject property, and all owners of property within 300 feet of the subject property, at least 13 days before the public hearing. See 88-505-07.

**88-570-04-B. COURTESY POSTED NOTICE**

Applicants are responsible for providing additional courtesy notice to interested parties by posting a sign on the subject property visible from each abutting public right-of-way. Signs must be posted by the applicant at least 15 days before the city planning and development director's decision.

**88-570-05 REVIEW AND DECISION—CITY PLANNING AND DEVELOPMENT DIRECTOR**

The city planning and development director must review each application for an administrative adjustment and act to approve the application, approve the application with conditions, deny the application or refer the application to the board of zoning adjustment. The city planning and development director's decision to approve or deny must be based on the approval criteria of 88-570-06. If referred to the board of zoning adjustment, the matter must be processed as a zoning variance request in accordance with Article 88-565. The city planning and development director may not take final action to approve or deny an administrative adjustment application until at least 15 days after the date that notices were mailed to abutting property owners.

**88-570-06 APPROVAL CRITERIA**

Administrative adjustments may be approved by the city planning and development director only when the city planning and development director determines that any specific approval criteria associated with the authorized administrative adjustment and the following general approval criteria have been met:

**88-570-06-A.**the requested administrative adjustment is consistent with all relevant purpose and intent statements of this zoning and development code, including the intent statement of 88-570-01;

**88-570-06-B.** the requested administrative adjustment will have no appreciable adverse impact on the health, safety, or general welfare of surrounding property owners or the general public; and

**88-570-06-C.**any adverse impacts resulting from the administrative adjustment will be mitigated to the maximum extent feasible.

#### **88-570-07 CONDITIONS OF APPROVAL**

In granting an administrative adjustment, the city planning and development director may impose conditions upon the subject property that are necessary to reduce or minimize any potentially adverse impacts on other property in the neighborhood, and to carry out the stated purpose and intent of this zoning and development code.

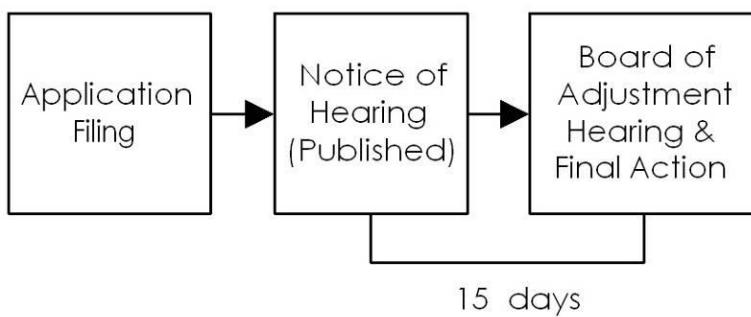
#### **88-570-08 APPEALS**

Final decisions of the city planning and development director may be appealed by any person aggrieved by the decision. Appeals of decisions on administrative adjustments will be heard by the board of zoning adjustment as zoning variance requests.

#### **88-570-09 REPORTING**

The city planning and development director must provide a report to the board of zoning adjustment on a regular basis describing the number, nature and disposition of administrative adjustment requests acted on by the city planning and development director since the last report was given to the board of zoning adjustment.

### **88-575 APPEALS OF ADMINISTRATIVE DECISIONS**



#### **88-575-01 APPLICABILITY; AUTHORIZED APPEALS**

The board of zoning adjustment is authorized to hear and decide appeals where it is alleged there has been an error in any order, requirement, decision or determination made by an administrative official of the city in the administration, interpretation or enforcement of this zoning and development code.

#### **88-575-02 RIGHT TO APPEAL**

Appeals of administrative decisions may be filed by any person aggrieved by the administrative official's decision or action.

**88-575-03 APPLICATION FILING**

**88-575-03-A.** Complete applications for appeals of administrative decisions must be filed with appropriate personnel in the city planning and development department.

**88-575-03-B.** Appeals of administrative decisions must be filed within 15 days of the date of the decision being appealed.

**88-575-04 EFFECT OF FILING**

The filing of a complete notice of appeal stays all proceedings in furtherance of the action appealed, unless the city planning and development director certifies to the board of zoning adjustment, after the appeal is filed, that, because of facts stated in the certification, a stay would cause immediate peril to life or property. In such cases, proceedings may not be stayed other than by a restraining order, which may be granted by the board of zoning adjustment or by a court of record.

**88-575-05 RECORD OF DECISION**

Upon receipt of a complete application of appeal, the official whose decision is being appealed must transmit to the board of zoning adjustment all papers constituting the record upon which the action appealed is taken.

**88-575-06 NOTICE OF HEARING—NEWSPAPER**

Notice of required public hearings on appeals of administrative decisions must be published in the newspaper at least 15 days before the date of the public hearing. See 88-505-07.

**88-575-07 REQUIRED MAILED NOTICE**

Notice of required public hearings must be mailed to the subject property owner, any registered neighborhood organization and/or registered civic organization whose boundaries include the property that is the subject of the appeal, and all owners of property within 300 feet of the subject property. See 88-505-07.

**88-575-08 HEARING AND FINAL DECISION**

**88-575-08-A.** The board of zoning adjustment must hold at least one public hearing on the appeal.

**88-575-08-B.** In acting on the appeal the board of zoning adjustment must grant to the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant. In exercising the appeal power, the board of zoning adjustment has all the powers of the official from whom the appeal is taken, and the board of zoning adjustment may reverse or affirm wholly or partly or may modify the decision being appealed. If the board of zoning adjustment determines that it is necessary to obtain additional evidence in order to resolve the matter, it may remand the appeal to the official from whom the appeal is taken, with directions to obtain the necessary evidence and to reconsider the decision in light of that evidence.

**88-575-08-C.** A concurring vote of at least 4 members of the board of zoning adjustment is required to reverse any order, requirement, decision, or determination of an administrative official.

**88-575-09 REVIEW CRITERIA**

An appeal may be sustained only if the board of zoning adjustment finds that the administrative official erred.

**88-575-10 DATE OF DECISION**

Within 10 days after a decision is made by the board of zoning adjustment, copies of the written decision must be sent to the applicant (appellant). The decision is final on the date that the letter of final disposition is mailed to the applicant.

**88-575-11 REHEARING**

The board of zoning adjustment may grant a rehearing on any appeal of administrative decision if the rehearing request includes new evidence to be presented that was not available at the time of the original hearing or when the board of zoning adjustment determines that good cause has been shown for a rehearing. The request for a rehearing must be made within 30 days of the date that notice of decision was sent to the applicant. No more than one rehearing is permitted.

**88-580 HISTORIC DESIGNATIONS**

**88-580-01 DESIGNATION**

**88-580-01-A.APPLICATION FILING**

Complete applications for designation of historic districts, landmarks or overlay zoning districts (H/O districts) must be filed with appropriate personnel in the office of the historic landmarks commission. Applications must contain a legal description of the property and a statement describing its historic, cultural, aesthetic or architectural significance.

**88-580-01-B.NOTICE OF HEARING**

**1. REQUIRED NEWSPAPER NOTICE**

Notice of required public hearings on proposed designation of historic districts, landmarks or overlay zoning districts (H/O districts) must be published in the newspaper at least 15 days before the date of the public hearing. See 88-505-07.

**2. REQUIRED MAILED NOTICE**

Notice of required public hearings must be mailed to the subject property owner, any registered neighborhood organization and/or registered civic organization whose boundaries include the subject property, and all owners of property within 300 feet of the subject property. See 88-505-07.

**88-580-01-C.HEARING AND RECOMMENDATION—LANDMARKS COMMISSION**

1. The landmarks commission must hold at least one public hearing on the designation of historic districts, landmarks or overlay zoning districts (H/O districts). Following the close of the hearing, the landmarks commission must act to recommend that the proposed designation be approved, approved with modifications or denied. Five affirmative votes are required to recommend approval or approval with modifications.

2. If the proposed designation is recommended for approval or approval with modifications, the recommendation must be forwarded to the city plan commission.
3. If the proposed designation is not recommended for approval or approval with modifications, the application will be considered to have been denied and the application will not be forwarded to the city plan commission or city council for further review. The decision to deny will be considered the final administrative decision of the landmarks commission 30 days after the date of the landmarks commissions' decision unless a request for rehearing is granted. If an application for a rehearing is denied or if, upon rehearing, the application is still not recommended for approval or approval with modifications, the decision to deny will be the final administrative decision on the date of the landmarks commission's decision.
4. The landmarks commission may grant a rehearing if the rehearing request includes new evidence to be presented that was not available at the time of the original hearing. The request for a rehearing must be made within 30 days of the date of the landmarks commission's original action. No more than one rehearing is permitted.

**88-580-01-D. HEARING AND RECOMMENDATION—CITY PLAN COMMISSION**

The city plan commission must hold at least one public hearing on all historic district, landmark or overlay zoning district (H/O) designation applications forwarded by the landmarks commission. Following the close of the hearing, the city plan commission must act by simple majority vote to recommend that the proposed designation be approved, approved with modifications or denied. The city plan commission may also act to continue the matter for further deliberation.

**88-580-01-E. HEARING AND FINAL ACTION—CITY COUNCIL**

1. After receiving the recommendation of the landmarks commission and the city plan commission, the city council may convene its own public hearing on the proposed historic district, landmark or overlay zoning district (H/O) designation.
2. Following the close of the public hearing, the city council may act to approve the proposed designation, approve the designation with modifications or deny the designation.
3. The city council may act by a simple majority vote, except when a valid protest petition of H/O zoning designation has been submitted in accordance with 88-515-09, approval or approval with modifications requires a 2/3 majority vote of the full membership of the city council.
4. Immediately upon passage of an ordinance designating a particular site as an historic landmark or historic district, notice of designation must be provided to the city planning and development director.
5. Once designated by city council, the historic district, landmark or overlay zoning district (H/O) designation will remain in place until such designation is officially revoked.

**88-580-01-F. REVIEW CRITERIA**

In reviewing and making decisions on proposed historic landmark and historic district designations, review and decision-making bodies must consider at least the following factors:

1. the criteria used in determining eligibility for listing on the U.S. Department of Interior's National Register of Historic Places, including the historic, cultural, aesthetic or architectural significance of the building, structure, site, object or district;
2. the economic impact of the designation on the subject property and the surrounding area; and
3. conformance with the city's adopted plans and planning policies.

**88-580-02 REVOCATION OF HISTORIC LANDMARK OR HISTORIC DISTRICT DESIGNATION**

**88-580-02-A.APPLICATION FILING**

Complete applications for official revocation of historic landmark or historic district designation must be filed with appropriate personnel in the office of the historic landmark commission. Applications must contain a legal description of the property and a statement describing why the historic designation should be revoked.

**88-580-02-B.NOTICE OF HEARING**

**1. REQUIRED NEWSPAPER NOTICE**

Notice of required public hearings on proposed revocation of historic landmark or historic district designations must be published in the newspaper at least 15 days before the date of the public hearing. See 88-505-07.

**2. REQUIRED MAILED NOTICE**

Mailed notice must be provided to the subject property owner, any registered neighborhood organization and/or registered civic organization whose boundaries include the subject property, and to all owners of property within 300 feet of the subject property. See 88-505-07.

**88-580-02-C.HEARING AND RECOMMENDATION—LANDMARKS COMMISSION**

1. The landmarks commission must hold at least one public hearing on the revocation of historic landmark or historic district designations. Following the close of the hearing, the landmarks commission must act to recommend that the proposed designation be revoked or retained. Five affirmative votes are required to recommend revocation of an historic designation.
2. If a historic landmark or district designation application is recommended for revocation, the recommendation must be forwarded to the city plan commission.
3. If the historic landmark or historic district designation is not recommended for revocation, the application will be considered to have been denied. The decision to retain the historic landmark or historic district designation will be considered

the final administrative decision of the landmarks commission 30 days after the date of the landmarks commissions' decision unless a request for rehearing is granted. If an application for a rehearing is denied or if, upon rehearing, the revocation is still not recommended for approval, the decision to retain the historic designation will be the final administrative decision on the date of the landmarks commission's decision.

4. The landmarks commission may grant a rehearing if the rehearing request includes new evidence to be presented that was not available at the time of the original hearing. The request for a rehearing must be made within 30 days of the date of the landmarks commission's original action. No more than one rehearing is permitted.

**88-580-02-D. HEARING AND RECOMMENDATION—CITY PLAN COMMISSION**

The city plan commission must hold at least one public hearing on all historic landmark or historic district revocation applications forwarded by the landmarks commission. Following the close of the hearing, the city plan commission must act by simple majority vote to recommend that the proposed historic landmark or historic district designation be revoked or retained. The city plan commission may also act to continue the matter for further deliberation.

**88-580-02-E. HEARING AND FINAL ACTION—CITY COUNCIL**

1. After receiving the recommendation of the landmarks commission and the city plan commission, the city council may convene its own public hearing on the proposed historic landmark or historic district revocation.
2. Following the close of the public hearing, the city council may act to approve the proposed revocation or retain the historic landmark or historic district designation.
3. The city council may act by a simple majority vote, except when a valid protest petition of H/O zoning revocation has been submitted in accordance with 88-515-09, approval or approval with modifications requires a 2/3 majority vote of the full membership of the city council.

**88-580-02-F. REVIEW CRITERIA**

In reviewing and making decisions on proposed historic district, landmark and H/O designations and proposed revocations of such designations, review and decision-making bodies must consider at least the following factors:

1. the criteria used in determining eligibility for listing on the U.S. Department of Interior's National Register of Historic Places, including the historic, cultural, aesthetic or architectural significance of the building, structure, site, object or district;
2. whether the historic landmark or historic district has lost the historic, cultural, aesthetic or architectural significance that led to its initial designation as a historic landmark or historic district;
3. the economic impact of the revocation on the subject property and the surrounding area; and
4. conformance with the city's adopted plans and planning policies.

## **88-585 CERTIFICATES OF APPROPRIATENESS**

### **88-585-01 APPLICABILITY**

**88-585-01-A.** For real property that is designated as an historic landmark or that is located within the boundaries of an historic district or an historic overlay district, certificates of appropriateness are required for exterior alterations or material changes visible from any public place. No building permit or other permit may be issued for real property that is designated as an historic landmark or that is located within the boundaries of an historic district until a certificate of appropriateness is approved in accordance with the procedures of this article.

**88-585-01-B.** For the purposes of this article, the terms "exterior alteration" and "material change" include:

1. the construction, reconstruction, improvement, repair, removal, demolition or moving of any building, structure or utility.
2. site work, substantial landscaping, substantial planting plan, paving or any changes in the existing land surfaces of the property.
3. the erection or placement of any sign.

**88-585-01-C.** For the purposes of this article, the terms "exterior alteration" or "material change" does not include:

1. work with respect to utilities, to the extent that no material change results in appearance or to the extent that visibility from any public place is not affected; or
2. ordinary and necessary maintenance that results in no material change in appearance.

### **88-585-02 EMERGENCY REPAIRS**

**88-585-02-A.** If any emergency situation exists, temporary repairs required to prevent imminent damage to a structure may be authorized by the city planning and development director, subject to review by the landmarks commission.

**88-585-02-B.** Within 48 hours after the repairs are made, the person making such authorized temporary repairs must notify the city planning and development director. If any work intended to be permanent was performed or is to be performed, a certificate of appropriateness must be obtained in accordance with the procedures of this article.

### **88-585-03 APPLICATION FILING**

Complete applications for certificates appropriateness must be filed with appropriate personnel in the office of the landmarks commission.

### **88-585-04 STAFF REVIEW AND APPROVAL**

#### **88-585-04-A.APPLICABILITY**

1. The city planning and development director is hereby authorized to issue certificates of appropriateness without review by the landmarks commission if the

certificate of appropriateness is for an insubstantial change, which is a change to a feature of a building, structure or site that is not historically significant, as defined in the rules and regulations of the landmarks commission.

2. The city planning and development director may not approve any application for a substantial change, which is a change to a feature of a building, structure or site that is historically significant, as defined in the rules and regulations of the landmarks commission
3. The city planning and development director may refer any project to the landmarks commission upon which it may otherwise act, due to the complexity of the project or uncertainty as to its consistency with the landmarks commission's rules and policies.
4. The city planning and development director does not have final decision-making authority to deny a certificate of appropriateness. Any application that is not approved by the city planning and development director must be forwarded to the landmarks commission for review in accordance with the procedures of 88-585-05.
5. The city planning and development director must notify the landmarks commission of certificates of appropriateness issued at the landmarks commission's next regular meeting.

#### **88-585-04-B. NOTICE**

1. **REQUIRED MAILED NOTICE**

Notice of required public hearings must be mailed to the subject property owner, any registered neighborhood organization and/or registered civic organization whose boundaries include the subject property, and all owners of property within 300 feet of the subject property. See 88-505-07.

2. **NOTICE TO LANDMARKS COMMISSION**

The city planning and development director must mail notice to the landmarks commission at least 7 days before of the issuance of a certificate of appropriateness. If any member of the landmarks commission objects, in writing, to the city planning and development director's issuance of the certificate of appropriateness, then the application must be forwarded to the landmarks commission for review in accordance with the procedures of 88-585-05.

#### **88-585-05 LANDMARKS COMMISSION REVIEW AND APPROVAL**

##### **88-585-05-A. NOTICE OF HEARING**

1. **REQUIRED NEWSPAPER NOTICE**

Notice of required public hearings on applications for certificates of appropriateness must be published in the newspaper at least 7 days before the date of the public hearing. See 88-505-07.

**2. REQUIRED MAILED NOTICE**

Mailed notice must be provided to the subject property owner, any registered neighborhood organization and/or registered civic organization whose boundaries include the subject property, and to all owners of property within 300 feet of the subject property. See 88-505-07.

**3. COURTESY POSTED NOTICE**

Applicants are responsible for providing additional courtesy notice to interested parties by posting a sign on the subject property visible from each abutting public right-of-way. Signs must be posted by the applicant at least 15 days before the public hearing.

**88-585-05-B. HEARING AND FINAL DECISION**

1. The landmarks commission must hold at least one public hearing on all certificate of appropriateness requests that are not eligible for staff approval. Following the close of the hearing, the landmarks commission must act, by simple majority vote, to approve or deny the certificate of appropriateness.
2. In the event of a tie vote or the inability of the landmarks commission to act on an application under this section, the certificate of appropriateness application will be deemed to have been denied.
3. The landmarks commission must enter its order and record in writing its decision and the facts upon which its decision were based. An order of approval must describe in detail the work that was approved, the approved materials, and the approved manner of carrying out the work.

**88-585-05-C. REHEARING**

The landmarks commission may grant a rehearing if the rehearing request includes new evidence to be presented that was not available at the time of the original hearing. The request for a rehearing must be made within 30 days of the date of the landmarks commission's original action. No more than one rehearing is permitted.

**88-585-05-D. DECISION-MAKING CRITERIA**

1. The landmarks commission or its authorized staff may approve a certificate of appropriateness if they find that:
  - (a) the changes proposed are such as not to be visible from any public place;
  - (b) the changes are not detrimental to the architectural, cultural, historic or textural character of other improvements of the real property designated as historic landmarks or historic district; or
  - (c) the changes are necessary to prevent or relieve an economic hardship.
2. The landmarks commission or its authorized staff may deny a certificate of appropriateness if they find that proposed changes are detrimental to the architectural, cultural, historic or textural character of the real property designated as an historic landmark or in an historic district.
3. Factors to be considered in review of applications for certificates of appropriateness are as follows:

- (a) In determining whether the changes proposed are detrimental to the architectural, cultural, historic or textural character of the real property designated as historic landmarks or historic district, or of other improvements, the landmarks commission or the staff, as appropriate, must consider whether the proposed changes are in accordance with the U.S. Secretary of the Interior's standards for rehabilitation.
- (b) In considering whether the erection of any sign should be permitted, the landmarks commission or staff, as appropriate, must determine whether the placement, size, texture, style and materials are compatible with the historic landmark or district.
- (c) In reviewing the application, the landmarks commission or staff, as appropriate, must determine whether the work proposed is visible from any public place. This determination may be implied from the evidence presented at the hearing.

**88-585-05-E. EFFECT OF DENIAL**

If a certificate of appropriateness is denied, no building permit may be issued and no other work for which a certificate of appropriateness is required may be undertaken for a period of 36 months after the date that the application is denied.

**88-585-05-F. CERTIFICATE OF ECONOMIC HARDSHIP**

1. Consideration of an application for a certificate of economic hardship may be made only after a certificate of appropriateness has been denied. The landmarks commission may review an application for a certificate of economic hardship at the same meeting in which the certificate of appropriateness has been denied if required notice has been given.
2. The landmarks commission may solicit expert testimony or require that the applicant for a certificate of economic hardship make submissions concerning any or all of the following information before it makes a determination on the application or as defined in the rules and regulations of the landmarks commission:
  - (a) an estimate of the cost of the proposed construction, alteration, demolition or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the landmarks commission for changes necessary for the issuance of a certificate of appropriateness;
  - (b) a report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;
  - (c) estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition or removal; after any changes recommended by the landmarks commission, and, in the case of a proposed demolition, after renovation of the existing property for continued use;

- (d) in the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility or rehabilitation or reuse of the existing structure.

#### **88-585-05-G. LAPSE OF APPROVAL**

1. An approved certificate of appropriateness will lapse and have no further effect 2 years after its approval unless:
  - (a) a building permit has been issued and construction diligently pursued;
  - (b) a certificate of occupancy has been issued; or
  - (c) the building or use is established; or
  - (d) the landmarks commission extends the expiration period by no more than one year.
2. A certificate of appropriateness also lapses upon revocation of a building permit for violations of conditions of approval.

#### **88-585-06 MAINTENANCE OF HISTORIC BUILDINGS AND SITES**

Buildings and sites designated as historic landmarks or within historic districts must comply with the minimum requirements of the property maintenance code and any other regulatory codes of the city. The landmarks commission may initiate complaints regarding violations of regulatory codes against a specific building that is in violation of the property maintenance code. The commission may seek to have any defects corrected or repairs made, so that such building is protected and preserved in conformance with the city code.

### **88-590 CITY STANDARDS, SPECIFICATIONS AND DESIGN CRITERIA**

#### **88-590-01 AUTHORITY**

The city's *Standards, Specifications or Design Criteria* and related engineering rules and construction standards for public improvements in subdivisions and other developments (Public Works Standards) must be adopted by the City Council, in accordance with the procedures of this article. The Water Services Department's engineering and construction specifications and standards must be adopted by the Director of Water Services, in accordance with the procedures of this article. These provisions do not apply to public improvements installed by a governmental entity.

#### **88-590-02 NOTICE OF PUBLIC INPUT MEETINGS AND HEARINGS—PUBLIC WORKS STANDARDS**

**88-590-02-A.** Notice of required public input meetings and public hearings must be published in the newspaper at least 30 days before the date of the public input meeting or hearing. See 88-505-07.

**88-590-02-B.** Notice of required public input meetings and public hearings must be posted on the city's website and in prominent locations in offices of the public works department. Notices must be posted at least 30 days before the public input meeting or hearing.

**88-590-02-C.** Notice of required public input meetings and public hearings must be mailed (U.S. First Class) to interested parties who have registered to receive written notice on forms available in the department of public works. Notices must be mailed at least 30 days before the public input meeting or hearing.

**88-590-03 PUBLIC INPUT MEETING AND RECOMMENDATION—STANDARDS COMMITTEE—PUBLIC WORKS STANDARDS**

The public works standards committee must hold at least one public meeting to receive public input on proposals to adopt or amend the city's *Standards, Specifications or Design Criteria*. Following the meeting, a public comment period of at least 30 days duration must be provided to receive additional public input. Following the close of the public comment period, the standards committee may act by simple majority vote to recommend that the proposed *Standards, Specifications or Design Criteria* be approved, approved with modifications, denied, or continued for further consideration.

**88-590-04 HEARING AND FINAL ACTION—CITY COUNCIL—PUBLIC WORKS STANDARDS**

**88-590-04-A.** After action by the public works standards committee, the city council or designated city council committee must convene a public hearing on the matter.

**88-590-04-B.** Following the public hearing, the city council or designated city council committee may act to approve the proposal, approve the proposal with modifications or deny the proposal. The city council may also refer the matter back to the standards committee for further consideration, together with a written explanation of the reasons for doing so.

**88-590-04-C.** The city council and city council committees must act in accordance with the city Charter and applicable state law.

**88-590-05 Notice of Public Input Meetings and Hearings--Water Services Standards**

**88-590-05-A** Notice of required public input meetings and public hearings must be published in the newspaper at least 30 day before the date of the public input meetings or hearing. See 88-505-07.

**88-590-05-B** Notice of required public input meetings and public hearings must be posted on the City's website and in prominent locations in offices of the Water Services Department. Notices must be posted at least 30 days before the public input meeting or hearing.

**88-590-05-C** Notice of required public input meetings and public hearings must be mailed (U. S. First Class) to interested parties who have registered to receive written notice on forms available in the Water Services Department. Notices must be mailed at least 30 days before the public input meeting or hearing.

**88-590-06 Public Input Meeting and Recommendation – Water Services Standards**

The Water Services Department Standards Committee must hold at least one public meeting to receive public input on proposals to adopt or amend the department's standards. Following the meeting a public comment period of at least 30 days duration must be provided to receive

additional public input. Following the close of the public comment period, the Water Services Department Standards Committee may act by simple majority vote to recommend that the proposed standards be approved, approved with modifications, denied, or continued for further consideration.

**88-590-07 Final Action –Water Services Standards--Director of Water Services**

Within 30 days after the end of the public comment period for the Water Services Department Standards Committee proposals, the Director of Water Services may act to approve the proposal, approve the proposal with modifications or deny the proposal. The Director may also refer the matter back to the Water Services Department Standards Committee for further consideration, together with a written explanation of the reasons for doing so.

**600 SERIES • • ADMINISTRATION AND ENFORCEMENT**

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**88-605 REVIEW AND DECISION-MAKING BODIES**

**88-605-01 BOARD OF ZONING ADJUSTMENT**

**88-605-01-A. ESTABLISHMENT, MEMBERSHIP AND MEETINGS**

1. The board of zoning adjustment, as originally provided for in Ordinance No. 45608, passed June 4, 1923, consists of 5 members, who must be residents of the city.
2. Board of zoning adjustment members serve 5-year overlapping terms.
3. In addition to the 5 regular members of the board of zoning adjustment, there must be 3 alternate members, who must also be residents of the city. Alternate members serve in the absence or disqualification of regular members. Alternate members serve one year terms.
4. In accordance with RSMo 89.080, the mayor, by and with the advice and consent of the city council, appoints all regular and alternate members of the board of zoning adjustment, provided that not more than 2 regular members may reside in

the same city council district. Vacancies must be filled for the unexpired term of any member or alternate member whose term is vacant.

5. Regular members and alternate members may be removed for cause by the appointing authority upon written charges and after public hearing.
6. The board of zoning adjustment must elect its own chair and vice-chair to serve one-year terms. Alternate member may not serve as chair or vice-chair.
7. The board of zoning adjustment may adopt, from time to time, such rules and regulations as it may deem necessary to carry out its duties.
8. All meetings of the board of zoning adjustment must be in public, held at the call of the chair and at such other times as the board of zoning adjustment may determine. The chair, or in the chair's absence the vice-chair, may administer oaths and compel the attendance of witnesses. The board of zoning adjustment must keep minutes of the proceedings and reports, showing the vote of each member upon every question, or, if absent or failing to vote, indicating such fact, and must keep complete public records of this examination and other official actions on all proceedings before the board of zoning adjustment.
9. City plan commission members are ex officio advisory members of the board of zoning adjustment without vote. The secretary of the city plan commission is ex officio secretary of the board of zoning adjustment.

#### **88-605-01-B. POWERS AND DUTIES**

The board of zoning adjustment must hear and decide all matters referred to it or upon which it is required to pass under this zoning and development code.

#### **88-605-02 DEVELOPMENT REVIEW COMMITTEE**

##### **88-605-02-A. ESTABLISHMENT AND PURPOSE**

The development review committee is established for the primary purpose of assisting the city planning and development department and the city plan commission in the subdivision and site plan review process.

##### **88-605-02-B. MEMBERSHIP**

1. The membership of the development review committee is comprised of representatives of city departments that have direct involvement in matters likely to be addressed in the subdivision and site plan review process.
2. The following individuals are members of the development review committee:
  - (a) city planning and development director;
  - (b) public works director;
  - (c) parks and recreation director;
  - (d) water services director;
  - (e) health director;
  - (f) fire chief;

- (g) police chief; and
- (h) city attorney.

3. Members are authorized to delegate their development review committee responsibilities to other department officials and to assign review responsibilities to officials within multiple divisions of the department.

**88-605-02-C. EX OFFICIO MEMBERS**

In the interest of providing representation and input from other departments and agencies that may have specific concerns with the subdivision platting and site plan review process, certain ex officio members are appointed or may be designated by the city planning and development director to assist in the review process. The following are ex officio members of the development review committee:

1. electric utility companies serving the area involved;
2. gas utility;
3. telephone company;
4. school board, or boards, as applicable;
5. state highways and transportation department;
6. Mid-America Regional Council (MARC);
7. Federal Housing Administration;
8. U.S. Army Corps of Engineers;
9. U.S. Post Office Department; and
10. other agencies as deemed necessary by the city planning and development director to render a full review of any proposed subdivision.

**88-605-02-D. CHAIRPERSON**

The city planning and development director is the chairperson of the development review committee. The chair's function is to coordinate committee activities and notify each member and developer of scheduled meetings. The chairperson must also inform the developer of recommendations by the committee and must present recommendations to the city plan commission or to the city council, as necessary.

**88-605-02-E. DUTIES**

1. Copies of all proposed major site plans, preliminary plats and final plats will be submitted to members of the development review committee and the necessary ex officio members approximately 10 working days in advance of the regularly scheduled meeting date. This date will be established by the secretary of the city plan commission. Each committee member may submit comments and recommendations in writing and must indicate additions to or revisions of the plat and identify problem areas to be resolved prior to filing for final plat approval.
2. For each preliminary plat or final plat, the committee must, at that meeting, recommend either approval, approval with conditions, or disapproval. The

applicant or developer will have an opportunity to comply with the recommendations of the development review committee.

## **88-605-03 STREET NAMING COMMITTEE**

### **88-605-03-A. ESTABLISHMENT AND PURPOSE**

There is hereby established a street naming committee with the prime function of assigning names to the public and private streets.

### **88-605-03-B. MEMBERSHIP**

The following individuals are members of the street naming committee:

1. city planning and development director;
2. public works director;
3. parks and recreation director;
4. fire chief;
5. police chief
6. a neighborhood representative to be appointed by the city planning and development director; and
7. a business community representative to be appointed by the city planning and development director.

### **88-605-03-C. EX OFFICIO MEMBERS**

The following are ex officio members of the street naming committee:

1. U.S. post office; and
2. other agencies as deemed necessary by the city planning and development director to render a complete and competent review of proposed street names.

### **88-605-03-D. PROCEDURES**

The city planning and development director is the chairperson of the street naming committee. The chair's function is to coordinate committee activities and notify each member of scheduled meetings. The committee must meet to review requests to rename streets and make recommendations to the city planning and development director. The committee must meet to assign street names as part of the subdivision plat approval process. The chair must inform the developer of recommendations by the committee and must present recommendations to the city plan commission or the city council, as necessary.

### **88-605-03-E. HONORARY STREET NAMES**

Honorary street names may be used to honor neighborhood and local leaders, community activists, and state and national figures. The following guidelines apply.

#### **1. CONSIDERATION OF NOMINEES**

The nominating person or organization must prepare an autobiography or historical statement of the proposed recipient of the honorary street name designation. The statement should outline the historical or cultural significance of the nominated person, place or event to the community and to the city. Attached

to the autobiography or statement should be a brief statement indicating where the honorary street name is being requested and why a particular location would be appropriate.

**2. PETITION OF SUPPORT**

The nominating person or organization must include with the request package a petition of support for the proposed honorary street name. The petition must be signed by no fewer than 50 residents of the city, and must also include at least 75% of the property owners abutting that section of the street proposed to be honored. Special circumstances regarding street segment length or location, etc., will be considered by the street naming committee on a case-by-case basis.

**3. CONSIDERATION BY THE STREET NAMING COMMITTEE**

The nomination request package must be referred to the street naming committee for consideration. After the street naming committee reviews the application, a report discussing the validity of the petition and the anticipated costs that will be incurred to carry out the request must be prepared.

**4. FINANCIAL BURDEN**

The costs of fabrication and installation of the honorary signs as well as all future maintenance and replacement of the signs will be the responsibility of the nominating person or group.

**5. PLACEMENT AND DESIGN OF SIGNS**

Honorary street name signs may not exceed the regulatory size of a green guide street sign. The department of public works has sole authority for the fabrication and installation of honorary street name signs in the city.

**6. TERMINATION OF AN HONORARY STREET NAME DESIGNATION**

The city may choose at any time and for any reason to discontinue any honorary street name designation. Should all of the signs become missing or vandalized and remain so for a period of one year with no remedy, the designation will be considered abandoned. The city will not replace or repair any honorary signs without guarantee of compensation.

**7. HONORARY STREET NAME AS ALIAS FOR OFFICIAL STREET NAME**

The honorary street name must be logged as an alias in the city's emergency communications system and by the U.S. Postal Service for mail delivery purposes.

**8. APPEALS**

Any decision of the street naming committee should first be appealed to the development review committee by letter to the chair of the development review committee. Any decision of the development review committee may be further appealed to the city plan commission and further to the city council, as necessary.

**88-605-04 STANDARDS COMMITTEE—PUBLIC WORKS**

**88-605-04-A ESTABLISHMENT**

The public works standards committee is hereby established to promulgate engineering and construction specifications and standards for proper development of the city, except standards for the Water Services Department which are addressed in 88-605-05.

**88-605-04-B MEMBERSHIP**

The public works standards committee is composed of the following members:

1. director of public works department who serves as chairperson and secretary;
2. director of city planning and development;
3. chief environmental officer;
4. director of parks and recreation; and
5. director of water services.

**88-605-04-C POWERS AND DUTIES**

The public works standards committee is responsible for:

1. reviewing engineering standards, specifications and design criteria for the protection of public health, safety and welfare and proper development of the city;
2. utilizing the Kansas City Metro chapter, American Public Works Association, Standard Specification and Design Criteria (APWA) and other standards and specifications adopted by nationally recognized and reputable organizations in evaluating and making its recommendations;
3. taking public input before recommending adoption of any standard, specification or design criteria to be used in reviewing subdivision plat applications and constructing public improvements (exclusive of those constructed by governmental entities) associated with the development of land or any subdivision plat.
4. making recommendations regarding adopting or amendment of the public works department's *Standards and Design Criteria*;
5. fulfilling related duties assigned by the city manager.

**88-605-05 WATER SERVICES DEPARTMENT STANDARDS COMMITTEE**

**88-605-05-A Establishment**

The Water Services Department Standards Committee is hereby established to promulgate Water Services Department's related engineering and construction specifications and standards for proper development of the City.

**88-605-05-B Membership**

The Water Services Department Standards Committee is composed of the Director of Water Services and four of his or her appointees.

**88-605-06 OVERLAY DESIGN REVIEW BOARD**

**88-605-06-A. Establishment and Purpose**

The overlay design review board is established for the purpose of reviewing applications for and recommending to the city plan commission and city council neighborhood conservation overlay districts and reviewing development applications and determining compliance with the standards and design guidelines incorporated in enabling overlay district ordinances. The overlay design review board may:

1. evaluate applications for exterior building work, demolitions, and new construction per the guidelines and standards established for each overlay district,
2. issue certificates of overlay design review board appropriateness and demolition, and
3. review and made recommendations per the design guidelines and standards for zoning variances to the board of zoning adjustment.

**88-605-06-B. Membership**

1. The overlay design review board must consist of 5 core members (0) plus 2 overlay district representatives (0) from each district.
2. The mayor must appoint all members except for the boulevard and parkways overlay representatives, who must be appointed by the Board of Parks and Recreation Commissioners.
3. All members serve without compensation.
4. None of the members of the overlay design review board may be a member of the city council, but one member of the city plan commission may serve on the overlay design review board.

**88-605-06-C. Terms**

1. Appointments must be for a term of 3 years, to expire on April 10 of the respective year, except that the core members (0) of the first overlay design review board must serve the following terms: one for one year; 2 for 2 years; and 2 for 3 years. If appointed after commencement of the term, a member will be deemed to have served from April 11 of the respective year.
2. All members may continue in office as such until the respective successors have been appointed and qualified.
3. The mayor or board of parks and recreation commissioners, as appropriate, must fill vacancies occurring for reasons other than the expiration of terms within 60 days of the vacancy for the period of the unexpired term.
4. A member of the overlay design review board may be reappointed for a second term. After 2 consecutive terms or 6 years, a member is ineligible for reappointment until one calendar year has elapsed from the date of termination of their second term.

**88-605-06-D. Qualification and Nomination of Members**

**1. Core members**

- (a) At least 2 members of the overlay design review board should possess a demonstrated interest in, competence in or knowledge in architecture. The local chapter of the American Institute of Architects (AIA) must nominate these members and forward their recommendations to the mayor. If no nomination is received within 60 days of a request from the mayor, the mayor may make the appointment without the AIA's nomination.
- (b) At least one member of the overlay design review board should possess a demonstrated interest in, competence in or knowledge in urban planning. The local chapter of the American Planning Association (APA) must nominate this member and forward their recommendations to the mayor. If no nomination is received within 60 days of a request from the mayor, the mayor may make the appointment without the APA's nomination.
- (c) At least 2 members must be individuals who possess a demonstrated interest in, competence in or knowledge of neighborhood conservation.
- (d) Four of the 5 members must be residents of the city.

**2. District Representative Members**

With the adoption of each overlay district, the mayor must appoint 2 representatives of that district to the overlay design review board. Representatives must be property owners, residents, tenants or business owners within the adopted district boundaries.

**3. Boulevard and Parkway Members**

Qualifications and nominations of the 2 boulevard and parkway overlay district representative members are to be at the discretion of the board of parks and recreation commissioners.

**4. Lapsed Qualifications**

A board member who no longer meets the qualifications for serving on the board will automatically be deemed to have resigned from the board without further action.

**88-605-06-E. Quorum, Officers, Meetings**

**1. Officers**

The board must elect a chair and vice-chair to serve one-year terms. The chair and vice-chair must be core members.

**2. Quorums**

(a) Voting

- (1) Core members vote on all issues to come before the overlay design review board.

- (2) District representative members vote on all overlay design review board administrative issues and on those cases within the adopted boundaries of the overlay district.
- (b) Recommendations for approval of an overlay district and approval of accompanying design guidelines and standards must be made by the core members.
- (c) Recommendations for removal or modification of an overlay district and/or the accompanying design guidelines and standards must be made by the core members and the district representatives for the district under consideration.
- (d) A majority vote of 3 core members and 1 voting district representative is required for district specific business (i.e. certificate of appropriateness, modifications to district design guidelines and standards, etc).
- (e) A majority vote of at least 7 board members is required for approval of overlay design review board administrative decisions, which include election of chair and vice-chair, election of district representatives to the nominating committee, adoptions of rules and regulations, or other matters as defined the rules and regulations.

3. The board must establish a regular meeting time and must meet at least monthly, unless the chairperson and the director of city planning and development or designee, jointly determine that there is no business requiring that a meeting take place, in which case meetings may be cancelled. The chair or a majority of the overlay design review board members may call special meetings.
4. Board members must disclose any potential direct gain or loss that could flow from a board decision. It is recognized that most neighborhood conservation and pedestrian-oriented overlay district representatives per section 0 may receive an indirect gain or loss that could flow from a board decision. Where a potential conflict of interest may be perceived but the board member has no tangible interest at stake, disclosure and affirmation of unbiased decision-making is still important. If a board member bases his or her decision on personal knowledge and expertise, it should be acknowledged in the record.
5. The powers conferred upon the board must be exercised by resolution or motion and adopted by a majority vote of its voting members and recorded in the minutes with ayes and nays.
6. All meetings of the overlay design review board must be in public. The chair, or in the chair's absence the vice-chair, may administer oaths and compel the attendance of witnesses. The board must keep minutes of the proceedings and reports, showing the vote of each member upon every question, or, if absent or failing to vote, indicating such fact, and must keep complete public records of this examination and other official actions on all proceedings before the board.

**88-605-06-F. Powers and Duties**

The overlay design review board must hear and decide all matters referred to it or upon which it is required to pass under this zoning and development code, including but not limited to:

1. Review and make recommendations to the city plan commission regarding the designation of overlay districts per this zoning and development code, prepare documentation supporting such nomination, and maintain a register of designated overlay districts;
2. Approve design guidelines and standards in accordance with this zoning and development code;
3. Review, approve, conditionally approve, or deny ordinary maintenance, new construction, alterations, removals, and demolitions as approved in the design guidelines and standards governing each district, including review of plans for vacant lots through the issuance or denial of certificates of appropriateness;
4. Review and make recommendations to the city plan commission the termination of an overlay district;
5. Review and make recommendations to the board of zoning adjustment regarding authorized zoning variances pursuant to 88-565 as modified by the provisions of the ordinance creating each neighborhood conservation or pedestrian-oriented overlay district; and
6. Undertake any other activities as provided for by the city council in a duly passed ordinance.
7. From time to time, such rules and regulations as it may deem necessary to carry out its powers and duties.

**88-605-06-G. Meeting Attendance**

1. Any core member who misses 3 consecutive regular meetings or one-half of the regular meetings in a calendar year without an excuse approved by the overlay design review board will be considered to have resigned from membership on the overlay design review board. In this event, the overlay design review board must notify the mayor so that a replacement may be appointed.
2. Any district representative member who misses 3 consecutive meetings where business regarding their district is on the agenda will be considered to have resigned from membership on the overlay design review board. In this event, the overlay design review board must notify the mayor so that a replacement may be appointed.

**88-605-06-H. Effects of Decisions**

Unless appealed, the determinations of the overlay design review board on certificates of overlay design review board appropriateness and certificates for demolition or removal are final. Actions taken or recommendations made by the board that are subject to the review by the city plan commission, board of parks and recreation commissioners or the city council

are not binding on those bodies, and the reviewing body may decide a matter contrary to recommendations or actions of the overlay design review board.

**88-605-06-I. Enforcement**

1. No building permit, license, certificate, or other approval or entitlement may be issued or given by the city or any department or employee thereof with respect to any improvement subject to design review until the design of the improvement or demolition permit has been approved as provided in the overlay enabling ordinance. No certificate of use and occupancy or similar approval may be issued or given for any improvement subject to design review hereunder, unless and until the representative of the planning division has certified that the improvement has been completed in accordance with the design approved pursuant to the enabling overlay ordinance.
2. After a certificate of appropriateness has been issued, the director of city planning and development or designee must from time to time inspect the work undertaken pursuant to the decisions of the overlay design review board.
3. Members of the overlay design review board are encouraged to, from time to time, tour overlay districts to familiarize themselves with the features of the districts and to observe the impacts of their decisions.
4. The overlay design review board must establish a system for taking citizen complaints with regard to possible overlay ordinance violations.
5. The overlay design review board may file a petition with the director of city planning and development requesting inspection of specific projects for compliance with the requirements of the enabling overlay ordinance or overlay design review board decisions.
6. The director of city planning and development or designated staff must provide a quarterly report to the overlay design review board concerning number and nature of complaints filed, number and nature of inspections made, number of correction notices issued and steps taken or being taken to remedy violations.

**88-605-06-J. Annual Report**

The overlay design review board must provide an annual report to the city council on its activities for the past year.

**88-610 NONCONFORMITIES**

**88-610-01 GENERAL**

**88-610-01-A. INTENT**

In older cities such as Kansas City, many lots, uses, buildings, structures and other development features that were lawfully established (i.e., in compliance with all regulations in effect at the time of their establishment) have been made nonconforming by virtue of adoption of the city's first zoning ordinance in 1923 or by subsequent changes to the zoning

map or to the zoning regulations themselves. Nonconformity regulations are intended to clarify the effect of this “nonconforming” status and avoid confusion with illegal buildings and uses (those established in violation of zoning regulations). The regulations of this article are also intended to:

1. recognize the interests of landowners in continuing to use their property for uses and activities that were lawfully established;
2. promote maintenance, reuse and rehabilitation of existing buildings;
3. place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties; and
4. secure eventual compliance with the standards of this zoning and development code.

#### **88-610-01-B. AUTHORITY TO CONTINUE**

Any nonconformity that existed on the effective date specified in 88-10-02 or any situation that becomes nonconforming upon adoption of any amendment to this zoning and development code may be continued in accordance with the regulations of this article unless otherwise expressly stated.

#### **88-610-01-C. NOTICE OF ZONING MAP AMENDMENTS**

Within 30 days of the effective date of any zoning map amendment that creates any nonconformity, the city planning and development director must cause to be published a public notice in a daily paper of general circulation twice, on 2 successive weeks, notifying all property owners affected by such zoning map amendment, of the provisions of this article and of the requirement that an application for a certificate of legal nonconformance be filed within the one-year period set forth in this article. The city planning and development director must also mail notice (U.S. First Class) to property owners known by the city planning and development director to be rendered nonconforming by the zoning map amendment and any registered neighborhood organization and/or registered civic organization whose boundaries include property known by the city planning and development director to be rendered nonconforming by the zoning map amendment. The planning and development director must also post a copy of the public notice at a conspicuous place on the structure or land or deliver a copy of the notice to a person found at the property.

#### **88-610-01-D. DETERMINATION OF NONCONFORMITY STATUS**

1. The burden of proving that a nonconformity exists (as opposed to a violation of this zoning and development code) rests entirely with the subject landowner. The city planning and development director is authorized to determine whether adequate proof of nonconforming status has been provided by the subject landowner.
2. Evidence provided must be sufficient to show that the use or structure was lawfully established prior to annexation or prior to the adoption of the subject regulations and that the lawful use has been continuous and not been discontinued.
3. The city planning and development director’s decision on nonconforming status determinations may be appealed in accordance with Article 88-575.

**88-610-01-E. CERTIFICATES OF LEGAL NONCONFORMANCE**

1. A certificate of legal nonconformance must be issued by the city planning and development director upon timely request by a property owner if the city planning and development director determines that a property that does not currently comply with the requirements of this zoning and development code is a nonconformity that was lawfully established prior to the effective date of the city's first adopted zoning ordinance (in 1923) or any amendment thereto that created the nonconformity, and that such nonconformity has not been discontinued under the terms of this article. The certificate must specify the character and extent of the nonconformance.
2. Application for a certificate of legal nonconformance must be made within the following time restrictions or the legal nonconformance will be deemed to be discontinued:
  - (a) The owner of a property made nonconforming by any zoning map amendment after March 31, 1975, must apply for a certificate of legal nonconformance within one year of the date that it became nonconforming.
  - (b) The owner of a property made nonconforming by a text amendment after March 31, 1975 and before January 23, 2006, must have applied for a certificate of legal nonconformance within one year of the date that it became nonconforming.
  - (c) The owner of a property made nonconforming on or before March 31, 1975 by a zoning map amendment or text amendment, or made nonconforming by a text amendment on or after January 23, 2006, may apply for a certificate of legal nonconformance at any time.
3. Appeals of the city planning and development director's decision may be taken by the applicant or any aggrieved party in accordance with Article 88-575. If no appeal is taken within 15 days of the date the decision of the city planning and development director is issued, the decision will become final and any certificate of legal nonconformance issued or not issued will establish the legality of the nonconforming structure, use or use of open land.

**88-610-01-F. REPAIRS AND MAINTENANCE**

1. Nonconformities must be maintained to be safe and in good repair.
2. Incidental repairs and normal maintenance necessary to keep a nonconformity in sound condition are permitted unless otherwise expressly prohibited by this zoning and development code. No structural alterations may be made, except those allowed by Section 88-610.

**88-610-01-G. CHANGE OF TENANCY OR OWNERSHIP**

Nonconforming status runs with the land and is not affected by changes of tenancy, ownership, or management.

**88-610-02 INTERPRETATION**

Nothing in this article may be interpreted as authorization for or approval of the continuance of the use of a property in violation of zoning regulations in effect at the time of the effective date

of this zoning and development code or of any amendments to this zoning and development code.

### **88-610-03 NONCONFORMING LOTS**

#### **88-610-03-A. DESCRIPTION**

A nonconforming lot is a lawfully created lot, shown on a plat or survey map recorded in the appropriate recorder of deeds office that does not comply with the most restrictive minimum lot area or lot width standards of the zoning district in which the lot is now located.

#### **88-610-03-B. USE OF NONCONFORMING LOTS**

1. In residential zoning districts, a nonconforming lot may be developed with a detached house.
2. In nonresidential zoning districts, a nonconforming lot may be developed with a use allowed within the subject zoning classification. If the zoning allows a variety of uses or a variety of intensities of uses and one or more uses or intensities would comply with applicable lot area and lot width standards, while others would not, then only the uses or intensities that comply with applicable standards are permitted.

#### **88-610-03-C. LOT CONSOLIDATION**

1. If two or more abutting lots (or portions of abutting lots), one or more of which are nonconforming, are in single ownership, the land involved will be deemed a single lot for purposes of determining compliance with lot size requirements, and no portion of the lot may be sold or used in a manner that diminishes compliance with lot size requirements.
2. In cases where 2 or more abutting lots of record are under single ownership and are deemed a single lot as set forth in paragraph 1 above, the city planning and development director may allow re-establishment of a lot previously combined with an abutting lot in order to accommodate a detached house, provided both of the following conditions are met:
  - (a) granting of the request results in compatible infill development that is in keeping with the pattern of development on the subject block; and
  - (b) the lot split will not result in the creation of any lot that is less than 30 feet in width.

#### **88-610-03-D. DIMENSIONAL STANDARDS**

Development on nonconforming lots must comply with the bulk and density standards of the subject zoning classification unless otherwise expressly stated.

### **88-611-04 NONCONFORMING USES**

#### **88-610-04-A. DESCRIPTION**

A nonconforming use is a land use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by

the use regulations of the zoning district in which the use is now located. Lawfully established uses that do not comply with separation distance requirements are also deemed nonconforming uses.

#### **88-610-04-B. CHANGE OF USE**

1. A nonconforming use may be changed to any other use that is allowed in the subject zoning district. Once changed to a conforming use, a nonconforming use may not be re-established.
2. The city planning and development director is authorized to approve a use substitution allowing one nonconforming use to be changed to another use that is classified in the same use category (see 88-805) or to another functionally similar use. In order to approve a use substitution, the city planning and development director must determine that the substituted use will create no greater adverse impacts on the surrounding area than the previous use. In making such a determination, the city planning and development director must consider all of the following factors:
  - (a) hours of operation;
  - (b) vehicular traffic;
  - (c) the number of employees and other people expected to be attracted to the use; and
  - (d) other factors likely to affect the neighborhood in which it is located.
3. All nonconforming signage for the existing use must be removed and all signage for the proposed use must conform to the underlying district in which it is located unless otherwise approved by the board of zoning adjustment.
4. A nonconforming use of open land may not be changed to any other nonconforming use of open land.

#### **88-610-04-C. EXPANSION OF USE**

1. Except as otherwise expressly stated, the city planning and development director is authorized to approve expansion of a nonconforming use into another part of the same building through the administrative adjustment process, provided that the city planning and development director determines that such expansion:
  - (a) will not result in a violation of off-street parking or loading requirements;
  - (b) will not violate any applicable lot or building standards;
  - (c) will not result in greater adverse impacts on the surrounding area; and
  - (d) is not expressly prohibited by 0.
2. The following nonconforming uses may not be expanded:
  - (a) a nonconforming use of open land; or
  - (b) a nonconforming industrial or manufacturing use in an R district.

**88-610-04-D. LOSS OF NONCONFORMING STATUS**

**1. DISCONTINUANCE**

Once a nonconforming use is discontinued, its nonconforming status is lost and any subsequent use of the property must comply with the regulations of the zoning district in which it is located. When a nonconforming use of open land ceases for a period of 90 consecutive days or more, it will be considered discontinued. Other nonconforming uses will be considered discontinued when any of the following occurs:

- (a) the intent of the owner to discontinue all uses in the structure is apparent;
- (b) the building or structure ceases to be used in a nonconforming manner for a period of 12 consecutive months.
- (c) no use has been maintained in the structure for a period of 12 months or more;
- (d) a demolition permit has been applied for;
- (e) all equipment and furnishings have been removed from the premises and have not been replaced by similar or other equipment and furnishings within 180 days;
- (f) the use was required to obtain a certificate of legal nonconformance and did not obtain such certificate within the timeframe required; or
- (g) the property has been used for illegal activities or the use has failed to comply with city ordinances or with state or federal law.
- (h) The vacancy of a portion of the units in a multi-unit building will not be deemed a discontinuance of the nonconforming use of the building.

**2. Notice of discontinuance of certificates of legal nonconformance must be provided as follows:**

- (a) Upon receipt of evidence that a legal nonconformance that has a certificate of legal nonconformance has been discontinued, the city planning and development director must promptly notify the owner that an order will be issued revoking the certificate of legal nonconformance, absent proof that such nonconformance has not been discontinued.
- (b) The owner of the legal nonconformance will be given a period of 30 days from the date of receipt of notice from the city planning and development director to submit evidence that the legal nonconformance was not discontinued.
- (c) At the expiration of 30 days or as soon thereafter as possible, the city planning and development director must issue an order revoking or refusing to revoke the certificate of legal nonconformance. The decision of the city planning and development director is final unless appealed to the board of zoning

adjustment within 15 days of the order of the city planning and development director.

- (d) This notice procedure is not applicable to a nonconformity which does not have a certificate of legal nonconformance.

**3. CHANGE TO A CONFORMING USE**

If a nonconforming use is changed to a conforming use, no matter how short the period of time, all nonconforming use rights are lost and re-establishment of the nonconforming use is prohibited.

**4. INTENTIONAL DESTRUCTION**

When a structure containing a nonconforming use is intentionally damaged by causes within the control of the owner, re-establishment of the nonconforming use is prohibited.

**5. ACCIDENTAL DAMAGE OR DESTRUCTION**

- (a) When more than 50% of the volume of a structure containing a nonconforming use is accidentally destroyed or damaged by causes that are not within the control of the owner or tenant, the use may not be restored except in conformance with the regulations of the zoning district in which it is located.
- (b) When 50% or less of the volume of a structure containing a nonconforming use is accidentally (by causes that are not within the control of the property owner or tenant) destroyed or damaged the use may be restored or repaired provided that no new nonconformities are created and that the existing nonconforming situation is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within 6 months of the date of occurrence of such damage, and once issued, construction must be diligently pursued or the nonconformity will be considered to be discontinued.
- (c) The determination of the extent of damage or destruction rests with the city planning and development director, based on evidence provided by the property owner.
- (d) No permit for restoration may be issued by the city planning and development director unless a certificate of legal nonconformance is presented with the request for a permit.

**6. REUSE OF HISTORIC COMMERCIAL STRUCTURE**

To encourage the reuse of designated landmarks, the board of zoning adjustment is authorized to approve continuance or re-establishment of the original use of a structure that is on the National Register of Historic Places or which has been locally designated as a landmark regardless of the period of discontinuance or vacancy or that has received the federal rehabilitation tax credit for buildings other than certified historic structures built before 1936 in accordance with Public Law 101-508; 26 U.S.C. 47 of the Federal Code as adopted on November 5, 1990. In approving such continuance or re-establishment, the board of zoning adjustment must follow the special use procedures of Article 88-525.

**88-610-04-E. NONCONFORMING ADULT BUSINESS USES**

1. Each of the following will be considered a unique and separate adult business: adult cabaret, adult media store (which will be considered a single use even if it also includes adult books and other printed matter); massage shop, modeling studio, bathhouse, adult motion picture theater and/or sex shop.
2. An adult media store is a less intensive use than a sex shop. Any nonconforming sex shop use may be converted to a nonconforming adult media store use at any time with written notice provided to the city planning and development director and without any further approvals or actions required by the city. If a nonconforming sex shop use is converted to a nonconforming adult media store use, the nonconforming sex shop use may not be re-established.
3. Except as provided in 0, when a certificate of legal nonconformance establishes a right to operate one or more adult businesses at a particular location, only the business or businesses specifically identified in the certificate of legal nonconformance is allowed and no other adult business are allowed as a nonconforming use at that particular location. The city planning and development director has no authority to authorize a change to a certificate of legal nonconformance for an adult business use except as expressly provided in this article (88-610)
4. Certificates of legal nonconformance issued for an adult business apply to all nonconforming aspects of the adult business, including the separation requirements expressly established for adult businesses.
5. Notwithstanding other provisions of this article (88-610), a nonconforming adult business that includes one or more nonconforming motion picture arcade booths for which there is a certificate of legal nonconformance will be allowed to relocate the motion picture arcade booths in conjunction with relocation of the principal business, subject to the following terms:
  - (a) the motion picture arcade booths may be relocated only if the relocation involves all adult businesses or all aspects of the adult businesses on the premises that are nonconforming;
  - (b) not more than the number of motion picture arcade booths actually shown on the certificate of legal nonconformance or proven by the applicant to be subject to the certificate of legal nonconformance in operation on the date of application for relocation may be relocated;
  - (c) the motion picture arcade booths may be relocated only in conjunction with the relocation of all adult businesses or all nonconforming aspects of the adult businesses;
  - (d) the location to which the motion picture arcade booths are relocated must conform in all respects to this zoning and development code as to all other aspects of the adult business, including separation and other requirements specifically applicable to the adult business that is relocating;

- (e) the relocated motion picture arcade booths must conform fully with the requirements of section 12-67 of the Code of Ordinances, including the design requirements;
- (f) after such relocation, the motion picture arcade booths will be the subject of a certificate of legal nonconformance as though they had always been at the new location, except that the certificate of legal nonconformance must, on its face, reflect the fact of the relocation and the actual history of the booths involved. Any relocation of an adult business, including motion picture arcade booths, must be approved by the city planning and development director upon receipt of a written request and such other information that the city planning and development director may request. The standards applied to the determination of approval or denial must be the conditions set forth in this subsection. Upon approval of the relocation of the adult business with the motion picture arcade booths, the certificate of legal nonconformance for the previous location will be void.

6. No building arranged or designed for or devoted to a nonconforming adult business may be extended or enlarged or structurally altered; provided however that alterations to the roofs of structures, including roof pitches, may be approved by the city planning and development director if the alteration does not increase the floor area or usable space of the structure and that establishments with "media rooms," "preview rooms" or other spaces created as exempt from Second Committee Substitute for Ordinance No. 970827, as amended, hereinafter referred to as "Ordinance 970827" as codified at section 12-275 through section 12-283, because they were nominally designed to seat 10 or more people, have until May 1, 1999, to remove the doors from those rooms and to take other actions to bring those spaces into compliance with section 12-67(a)(1), (2) and (3). As an alternative, the establishment may replace those rooms with no more than the number of motion picture arcade booths existing in the same space prior to the passage of Ordinance No. 970827, on July 3, 1997, provided that each and every replacement motion picture arcade booth must fully conform to the requirements of this section, and particularly with section 12-67(a)(1), (2) and (3); any booths created by conversion under this section will be treated as legal nonconforming uses, as though they had existed continuously from the date of passage of Ordinance No. 970827 until passage of Second Committee Substitute for Ordinance No. 981270.

7. Notwithstanding any other provisions of this article (88-610), an adult cabaret operating under a certificate of legal nonconformance and providing entertainment that does not comply with the provisions of Chapter 10 may convert to an adult cabaret providing entertainment that does comply with Chapter 10. At the time of such conversion, the city planning and development director may issue a new certificate that allows the expansion of the adult cabaret providing entertainment complying with the provision of Chapter 10, to include additional floor area within the confines of the structure of the existing building in which the adult cabaret is located, provided that the applicable off-street parking requirements of this zoning and development code are met, and provided that the converted adult cabaret becomes a less intensive use. Parking facilities must be in the same ownership as the lot to be served unless otherwise permitted

under terms approved by the city planning and development director. The city planning and development director may approve a site plan without required on-site parking when the parking provided is consistent with solid planning principles in consideration of anticipated use, mass transit accessibility and off-site parking availability. The parking provided on the site plan must remain available and will be the basis of a violation if not provided. Any adult cabaret that converts as above may not thereafter convert back to providing entertainment that does not comply with Chapter 10. The converted adult cabaret must comply with the following regarding signage and displays:

- (a) The facility in which such use is located is limited to one wall-mounted sign not to exceed a total of 50 square feet.
- (b) The sign may not flash, blink or move by mechanical means and may not extend above the roof line of the building.
- (c) No merchandise or pictures of products or entertainment on the premises may be displayed in window areas or any area where such merchandise or pictures can be viewed from the sidewalk in front of the building.
- (d) No flashing lights or lighting that leaves the impression of motion or movement is permitted.

## **88-610-05. NONCONFORMING STRUCTURES**

### **88-610-05-A. DESCRIPTION**

A nonconforming structure is any building or structure, other than a sign, that was lawfully established but no longer complies with the lot and building standards of this zoning and development code. Nonconforming structures may remain, subject to the regulations of this section.

### **88-610-05-B. ALTERATIONS AND EXPANSIONS**

Structural alterations, including enlargements and expansions, are permitted if the proposed structural alteration or expansion complies with all applicable lot and building standards. For example, a building with a nonconforming front setback may be expanded to the rear as long as such rear expansion complies with applicable rear setback standards and all other applicable lot and building standards.

### **88-610-05-C. USE**

A nonconforming structure may be used for any use allowed in the zoning district in which it is located.

### **88-610-05-D. MOVING**

A nonconforming structure may be moved in whole or in part to another location on the subject parcel only if the movement or relocation eliminates or reduces the extent of nonconformity.

### **88-610-05-E. LOSS OF NONCONFORMING STATUS**

#### **1. Intentional Damage or Destruction**

When a nonconforming structure is intentionally destroyed or damaged by causes within the control of the property owner or tenant, all nonconforming structure rights are lost and re-construction of the nonconforming structure is prohibited.

2. **Accidental Damage or Destruction**

- (a) When more than 50% of the volume of a nonconforming structure is accidentally destroyed or damaged by causes that are not within the control of the owner or tenant, the structure may not be restored except in conformity with the regulations of the zoning district in which it is located.
- (b) When 50% or less of the volume of a nonconforming structure is accidentally destroyed or damaged by causes that are not within the control of the property owner or tenant, the structure may be restored or repaired provided that no new nonconformities are created and the existing degree of nonconformity is not increased. A building permit to reconstruct a destroyed or damaged structure must be obtained within 6 months of the date of occurrence of such damage, and once issued, construction must be diligently pursued or the nonconformity will be considered to be discontinued.

## **88-615 VIOLATIONS, PENALTIES AND ENFORCEMENT**

### **88-615-01 GENERAL**

This article applies to all provisions of this zoning and development code unless otherwise expressly stated.

### **88-615-02 RESPONSIBILITY FOR ENFORCEMENT**

The city planning and development director has primary responsibility for enforcement of this zoning and development code.

### **88-615-03 RESPONSIBILITY FOR VIOLATIONS**

The following persons may be jointly and severally responsible for violations of this zoning and development code and subject to enforcement:

**88-615-03-A.**any owner of property on which a violation of this zoning and development code occurs;

**88-615-03-B.**any architect, engineer, builder, contractor, agent, or any other person who knowingly participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this zoning and development code; and

**88-615-03-C.**any tenant or occupant who has control over, or responsibility for, use or development of the subject property.

**88-615-04 VIOLATIONS**

All buildings, structures and land used or developed, and all buildings and structures erected, converted, enlarged, reconstructed, moved or structurally altered, must comply with all applicable provisions of this zoning and development code. Failure to comply with applicable provisions constitutes a violation of this zoning and development code. Express violations include but are not limited to the following:

- 88-615-04-A.** using land, buildings or structures in violation of the requirements of this zoning and development code;
- 88-615-04-B.** erecting a building or other structure in any way not consistent with the requirements of this zoning and development code;
- 88-615-04-C.** engaging in the development of land in any way not consistent with the requirements of this zoning and development code;
- 88-615-04-D.** developing or subdividing land inconsistent with the standards and procedures of this zoning and development code;
- 88-615-04-E.** subdividing, transferring or selling land before the subdivision has been approved and recorded, as provided in this zoning and development code (unless total receipts from such sale are deposited in escrow until such plat is recorded of record);
- 88-615-04-F.** subdividing any lot or parcel of land by the use of metes and bounds description for the purpose of sale, transfer or lease with the intent of evading or circumventing the requirements of this zoning and development code;
- 88-615-04-G.** installing or using a sign in any way not consistent with the requirements of this zoning and development code;
- 88-615-04-H.** engaging in the use or alteration of a building, structure or land, the use or installation of a sign, or any other activity requiring one or more permits or approvals under this zoning and development code without obtaining all such permits or approvals;
- 88-615-04-I.** failing to comply with any permit or approval granted under this zoning and development code;
- 88-615-04-J.** failing to comply with any condition imposed on a permit or approval, specifically including conditions of approval on a planned unit development, special use permit, site plan, administrative adjustment or variance;
- 88-615-04-K.** obscuring, obstructing, removing or destroying any notice required to be posted or otherwise given under this zoning and development code;
- 88-615-04-L.** failing to comply with any lawful order issued by an authorized city official; or
- 88-615-04-M.** disobeying, omitting, neglecting, or refusing to comply with or resist the enforcement of any of the provisions of this zoning and development code.

**88-615-05 REMEDIES AND ENFORCEMENT POWERS**

**88-615-05-A.APPLICABILITY**

The city may use any lawful remedy or enforcement powers, expressly including those described in this section.

**88-615-05-B. REMEDIES CUMULATIVE**

The remedies and enforcement powers established in this zoning and development code are cumulative, and the city may exercise them in any order.

**88-615-05-C. WITHHOLD PERMIT OR OTHER DEVELOPMENT AUTHORIZATION**

1. City officials may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements thereon upon which there is an uncorrected violation of a provision of this zoning and development code or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This provision applies regardless of whether the current property owner or applicant is responsible for the violation in question.
2. City officials may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, develops or otherwise causes an uncorrected violation of a provision of this zoning and development code or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This provision applies regardless of whether the property for which the permit or other approval is sought is the property in violation. For purposes of this section, a "person" is defined as any individual or business entity with more than a 20% interest in the subject property.

**88-615-05-D. PERMITS WITH CONDITIONS**

Instead of withholding or denying a permit or other authorization, city officials may grant such authorization subject to the condition that the violation be corrected by a specified time. City officials are also authorized to require adequate financial guarantees that corrective actions will be taken.

**88-615-05-E. 'STOP WORK'**

1. Whenever a structure or part of a structure is being constructed, reconstructed, altered, or repaired, or other development is occurring, in violation of this zoning and development code, the city planning and development director may order the work to be immediately stopped.
2. The stop work order must be in writing and directed to the person doing the work.
3. The stop work order must state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.

**88-615-05-F. FORFEITURE AND CONFISCATION OF SIGNS**

Any sign installed or placed on public property, except in compliance with the regulations of Section 88-445, will be subject to forfeiture to the public and confiscation. In addition to other remedies and penalties of this section, the city has the right to recover from the sign owner, or person who placed the sign, the full costs of sign removal and disposal.

**88-615-05-G. INJUNCTIVE RELIEF**

The city may seek an injunction or other equitable relief in court to stop any violation of this zoning and development code.

**88-615-05-H. ABATEMENT**

The city may seek a court order in the nature of mandamus, abatement, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed before the violation.

**88-615-05-I. REMEDIAL ACTION**

Any person who violates this zoning and development code by alteration or modification of a structure to increase the number of dwelling units or living spaces within the structure, or by allowing any such alteration or modification to continue or to be used, is required to remove all fixtures, electrical and plumbing connections, furnishings, partitions and non-load bearing walls used in the violation. Failure to remove any of the foregoing constitutes a separate violation.

**88-615-05-J. PENALTIES**

1. Any violation of this zoning and development code is punishable by a fine of not less than \$10.00 and not more than \$500.00 for each and every day that such violation continues, or imprisonment for 10 days for each and every day such violation continues, or both such fine and imprisonment, in the discretion of the court. The second and subsequent offenses involving the same violation at the same building or premises is punishable by a fine of not less than \$250.00 and not more than \$1,000.00 for each and every day that such violation continues, or imprisonment for 10 days for each and every day such violation continues, or by both such fine and imprisonment, in the discretion of the court.
2. If a person who is ordered by the city planning and development director to remove any violation of this zoning and development code fails to comply with such order within 10 days after service of the order or continues to violate any provision of this zoning and development code in the respect or as specified in such order will be subject to a civil penalty of \$250.00.

**88-615-05-K. OTHER REMEDIES AND ENFORCEMENT POWERS**

The city may seek such other remedies and use other enforcement powers, as allowed by law.

**88-615-06 CONTINUATION OF PREVIOUS ENFORCEMENT ACTIONS**

Nothing in this zoning and development code will be interpreted to prohibit the continuation of previous enforcement actions, undertaken by the city under previous, valid ordinances and laws.

**88-615-07 RIGHT OF ENTRY**

**88-615-07-A.** Whenever necessary to make an inspection or to enforce any of the provisions of this zoning and development code or whenever the city planning and development director has reasonable cause to believe that a violation of this zoning and development code has occurred or is occurring, the city planning and development director may enter the

building, structure or real property during normal work hours to conduct an inspection or to perform any authorized duty.

**88-615-07-B.** If the subject property is occupied, the city planning and development director must first present proper credentials and request and obtain permission to enter before entering a building, structure or real property. Reasonable effort must be made to locate the owner or other persons having charge or control of the property when seeking permission for entry.

**88-615-07-C.** If no consent has been given to enter or inspect any occupied building, structure or real property, no entry or inspection may be made without the procurement of a warrant from a judge in the municipal division, Kansas City, 16th Judicial Circuit Court of Missouri. The court may consider the following factors in its decision:

1. eyewitness accounts of violation;
2. citizen complaints;
3. tenant complaints;
4. plain-view violations;
5. violations apparent from city records;
6. nature of alleged violation, the threat to life or safety and imminent risk of significant property damage; and
7. previously unabated violations in the building or structure or on the premises.

**88-615-07-D.** Cause supporting issuance of a warrant is deemed to exist in light of reasonable legislative and administrative standards that show there is reason to believe that there exists a violation of the provisions of the zoning and development code.

## **88-615-08 SEARCH WARRANT**

**88-615-08-A.** If a written application for a search warrant under this section is filed by the city planning and development director, any police officer, deputy, or the city attorney, with the municipal division judge, stating that the authorized official has probable cause to believe there exists in a building, structure or on real property more particularly described therein, a violation of this zoning and development code, and if such complaint is verified by the oath or affirmation stating evidential facts from which such judge determines the existence of probable cause, then the judge may issue a search warrant directed to the authorized official to search the subject building, structure or real property for the purposes requested.

**88-615-08-B.** Such search warrant may be executed and returned only within 10 days after the date of its issuance. The official authorized to search must make a return promptly after concluding the search, and such return must contain an itemization of all violations of this zoning and development code discovered pursuant to such search.

**88-615-08-C.** Refusal to allow entry upon presentation of a search warrant is violation of this zoning and development code.

**88-615-08-D.** Execution of a search warrant issuance under this section may not be by forcible entry.

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**88-805 USE GROUPS AND CATEGORIES****88-805-01 GENERAL****88-805-01-A. USE GROUPS**

This zoning and development code classifies land uses into 5 major groupings: “residential,” “public and civic,” “commercial,” “industrial” and “other.” These are referred to as “use groups.”

**88-805-01-B. USE CATEGORIES**

Each use group is further divided into more specific “use categories.” Use categories classify land uses and activities based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions.

**88-805-01-C.TYPICAL USES**

Typical uses cited in the description of use categories are not intended to be exclusive or restrictive.

**88-805-01-D.DETERMINATION OF MOST SIMILAR USE CATEGORY**

When a specific use type cannot be readily classified into a use category or appears to fit into two or more use categories, the city planning and development director is authorized to determine the most similar, thus most appropriate, use category based on the following considerations:

1. the actual or projected characteristics of the activity in relationship to the stated characteristics of each use type;
2. the relative amount of site area or floor space and equipment devoted to the activity;
3. relative amounts of sales from each activity;
4. the customer type for each activity;
5. the relative number of employees in each activity;
6. hours of operation;
7. building and site arrangement;
8. vehicles used with the activity;
9. the relative number of vehicle trips generated by the use;
10. signs;
11. how the use advertises itself; and
12. whether the activity is likely to be found independent of the other activities on the site.

**88-805-02 RESIDENTIAL USE GROUP**

The residential use group includes uses that provide living accommodations to one or more persons. The group includes two use categories: household living and group living.

**88-805-02-A.HOUSEHOLD LIVING CATEGORY**

Residential occupancy of a dwelling unit by a household with tenancy arranged on a monthly or longer basis.

**88-805-02-B.GROUP LIVING**

Residential occupancy of a dwelling by other than a "household," typically providing communal kitchen/dining facilities. Examples of group living uses include but are not limited to fraternities, sororities, convents, monasteries, nursing homes and the following specific use types:

**1. GROUP HOME**

A single dwelling occupied on a permanent basis by a group of unrelated persons with disabilities. Group homes may also be occupied by paid staff and caregivers. Group homes are typically operated for the care of developmentally disabled

persons. It expressly excludes halfway houses for alcoholics, drug addicts, prisoners or juvenile delinquents, or any facility for individuals under court-mandated supervision. Group homes for 8 or fewer persons with disabilities are considered "households" and are allowed as of right in all districts that allow household living uses.

**2. DOMESTIC VIOLENCE RESIDENCE**

A residential building in which temporary housing is provided for up to 8 persons who are victims of domestic violence. Any children or support staff using sleeping accommodations at a domestic violence residence will be counted in determining maximum occupancy.

**3. DOMESTIC VIOLENCE SHELTER**

A building in which temporary housing is provided for more than 8 persons who are victims of domestic violence.

**4. NURSING HOME**

As defined in Chapter 198, RSMO.

**5. CONVENT/MONASTERY**

A residential building housing persons (such as nuns or monks) under religious vows.

**88-805-03 PUBLIC AND CIVIC USE GROUP**

The public and civic use group includes uses that provide public or quasi-public services. The public and civic use group includes the following use categories:

**88-805-03-A.COLLEGE/UNIVERSITY**

Colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. They are certified by the state or by a recognized accrediting agency. Colleges tend to be in campus-like settings or on multiple blocks. Examples include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, conservatories and seminaries.

**88-805-03-B.DAY CARE**

Uses providing care, protection and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day. There are 4 types of day care:

**1. HOME-BASED DAY CARE**

Day care provided within a dwelling unit for up to 4 children or adults, in addition to members of the day care provider's household.

**2. FAMILY DAY CARE**

Day care for 5 to 10 children or adults, in addition to members of the day care provider's household.

**3. GROUP DAY CARE**

Day care for 11 to 20 children or adults, in addition to members of the day care provider's household.

**4. DAY CARE CENTER**

Day care for 21 or more children or adults, in addition to members of the day care provider's household.

**88-805-03-C.DETENTION AND CORRECTIONAL FACILITIES**

Facilities for the judicially required detention or incarceration of people. Inmates and detainees are under 24-hour supervision by peace officers, except when on an approved leave. Examples include prisons, jails, probation centers and juvenile detention homes.

**88-805-03-D.HOSPITAL**

Uses providing medical or surgical care to patients and offering inpatient (overnight) care.

**88-805-03-E.LIBRARY, MUSEUM, OR CULTURAL EXHIBIT**

The exhibition, procurement, study, care, storage, conservation, or use of objects of lasting interest or value or literary, musical, artistic, or reference materials (such as books, manuscripts, recordings, or films); or administrative and/or educational functions supporting the foregoing.

**88-805-03-F. PARK/RECREATION**

Recreational, social, or multi-purpose uses associated with public parks, public open spaces, public community centers, public play fields, public or private golf courses, or other public recreation areas or buildings.

**1. COMMUNITY CENTER**

A facility for meetings, recreation or social activities.

**88-805-03-G. RELIGIOUS ASSEMBLY**

Religious services involving public assembly such as customarily occur in synagogues, temples, mosques and churches.

**88-805-03-H. SAFETY SERVICES**

Public safety services that provide fire, police or life protection, together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations, police stations and ambulance services.

**88-805-03-I. SCHOOL**

Public and private schools at the primary, elementary, junior high, or high school level that provide state-mandated basic education.

**88-805-03-J. UTILITIES AND SERVICES**

**1. MINOR, BASIC**

Infrastructure services that need to be located in area where the service is provided. Minor utilities and services generally do not have regular employees at the site and typically have few if any impacts on surrounding areas. Typical uses include water and sewer pump stations; water towers and reservoirs; electrical

substations; water conveyance systems; stormwater facilities and conveyance systems; telephone switching equipment and emergency communication broadcast facilities.

**2. MAJOR**

Infrastructure services that typically have substantial land-use impacts on surrounding areas. Typical uses include but are not limited to water and waste water treatment facilities and major water storage facilities.

**88-805-04 COMMERCIAL USE GROUP**

The commercial use group includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public. The commercial use group includes the following use categories.

**88-805-04-A.ADULT BUSINESS**

“Adult business” is an inclusive term used to describe collectively: adult cabaret; adult motion picture theatre; adult media store; bathhouse; massage shop; modeling studio; and/or sex shop. This collective term does not describe a specific land use and will not be considered a single use category.

**1. ADULT CABARET**

An adult live entertainment facility, or that part of an adult live entertainment facility, that regularly features or otherwise offers to the public, customers or members in a viewing area, any live exhibition, performance or dance by persons whose exhibition, performance or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appear unclothed or in such attire, costume or clothing so as to expose to view specified anatomical areas.

**2. ADULT MEDIA STORE**

An establishment that rents and/or sells adult media and that meets any of the following tests:

- (a) More than 40% of the gross public floor area is devoted to adult media;
- (b) More than 40% of the stock in trade consists of adult media; or
- (c) A media store that advertises or holds itself out in any forum as “XXX,” “adult,” “sex” or otherwise as an adult business.

**3. ADULT MOTION PICTURE THEATER**

A building or portion of a building (including any portion of a building that contains more than 150 square feet) used for presenting motion pictures, movies, videos or other projected images if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if, as a prevailing practice, the movies, videos or other material presented are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

**4. BATHHOUSE**

An establishment or business that provides the services of baths of all kinds, including all forms and methods of hydrotherapy, unless operated by a medical practitioner or professional physical therapist, licensed by the state.

**5. MASSAGE SHOP**

An establishment that has a fixed place of business having a source of income or compensation derived from the practice of any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulation of, external parts of the human body with the hands or with the aid of any mechanical, electric apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotion, ointment or other similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or gratuity provided that this term does not include any establishment operated by a medical practitioner, professional physical therapist, or massage therapist licensed by the state.

**6. MODELING STUDIO**

Modeling studio means an establishment or business that provides the services of modeling for the purposes of reproducing the human body, wholly or partially in the nude, by means of photography, painting, sketching, drawing or otherwise.

**7. SEX SHOP**

A business offering goods for sale or rent and that meets any of the following tests:

- (a) It offers for sale items from any two of the following categories: adult media; sexually-oriented toys or novelties; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; and the combination of such items constitutes more than 10% of the stock in trade of the business or occupies more than 10% of the gross public floor area of the business;
- (b) More than 5% of the stock in trade of the business consists of sexually-oriented toys or novelties; or
- (c) More than 5% of the gross public floor area of the business is devoted to the display of sexually oriented adult toys or novelties.

**88-805-04-B. ANIMAL SERVICES**

The following are animal services use types:

**1. SALES AND GROOMING**

Sales and grooming of dogs, cats and similar small animals. Typical uses include pet stores, dog bathing and clipping salons and pet grooming shops.

**2. SHELTER OR BOARDING KENNEL**

Animal shelters and kennel services for dogs, cats and small animals. Typical uses include boarding kennels, pet resorts/hotels, dog training centers and animal rescue shelters.

**3. VETERINARY**

Typical uses include pet clinics, dog and cat hospitals and animal hospitals.

**4. STABLE**

Stables and boarding facilities for horses and similar large animals.

**88-805-04-C.ARTIST WORK OR SALES SPACE**

Floor space devoted to the production, showing, or sale of art. Typical uses include art galleries and artist studios, but not including art museums. Art museums are classified in the "Libraries and Cultural Exhibits" use category.

**88-805-04-D.BUILDING MAINTENANCE SERVICE**

Provision of maintenance and custodial services to commercial and industrial establishments. Typical uses include janitorial, landscape maintenance and window cleaning services. Also includes exterminator services for residential, commercial or industrial applications.

**88-805-04-E.BUSINESS EQUIPMENT SALES AND SERVICE**

Sales, rental, or repair of office, professional and service equipment and supplies to companies rather than to individuals. Excludes automotive and heavy equipment sales or service. Typical uses include office equipment and supply firms, small business machine repair shops and hotel equipment and supply firms.

**88-805-04-F. BUSINESS SUPPORT SERVICE**

Provision of clerical, employment, protective, or minor processing services to firms rather than individuals. Typical uses include employment agencies and telephone answering services and business or trade schools. Business or trades schools that involve outdoor storage or manufacturing processes are not considered business support services but rather are to be classified in an Industrial use group category.

**1. DAY LABOR EMPLOYMENT AGENCY**

Any enterprise, other than a labor union or a not-for-profit organization, engaged in procuring or providing persons to perform temporary unskilled work at a site other than the day labor business premises in which (1) the day laborers are paid, by the day labor business or a third party employer, each work day or on the business day following the work day, and (2) persons arrive at the day labor business premises to make application for work as a day laborer, to obtain assignment for day labor, to obtain transportation to a day labor site or to obtain payment of wages or benefits for day labor. For purposes of this definition, "unskilled work" means work involving physical tasks for which the (1) the worker is not required by law to hold a professional or occupational license, or (2) the employer or contractor controlling the site of the work does not require the worker to have (a) a high school diploma or its equivalent, or (b) education beyond high school, or (c) relevant vocational education or (d) demonstrated

proficiency with a specified type of machinery to be used in the work, but does not include white collar, secretarial, clerical or professional work.

**88-805-04-G. COMMUNICATIONS SERVICE ESTABLISHMENTS**

Broadcasting and other information relay services accomplished through use of electronic and telephonic mechanisms. Excludes services classified as "major utilities and services" and "Minor Utilities." Typical uses include recording studios, television and radio studios, telecommunication service centers and telegraph service offices.

**88-805-04-H. DRIVE-THROUGH FACILITY**

Any service window, automated device or other facility that provides goods or services to individuals in a motor vehicle. Also includes "drive-in" businesses and facilities, such as drive-in restaurants and car washes.

**88-805-04-I. EATING AND DRINKING ESTABLISHMENTS**

Provision of prepared food and/or beverages for on- or off-premises consumption. Typical uses include restaurants, taverns and nightclubs.

**1. RESTAURANT**

An establishment primarily engaged in serving prepared food to the public and in which sales of such prepared foods and meals constitutes at least 50% of the establishment's gross income, pursuant to Chapter 10 of the municipal code

**2. TAVERN OR NIGHTCLUB**

An establishment that is primarily engaged in serving alcoholic liquor for consumption on the premises and in which the serving of prepared food, live entertainment and dancing are permitted.

**88-805-04-J. ENTERTAINMENT AND SPECTATOR SPORTS**

Provision of cultural, entertainment, athletic and other events to spectators, such as occurs in theaters, cinemas, auditoriums, fairgrounds, sports stadiums and racetracks. The following are spectator sports and entertainment use types:

**1. SMALL VENUE**

Entertainment and spectator sports establishments with a capacity of no more than 149 persons. Typical uses include small theaters and meeting or banquet halls.

**2. MEDIUM VENUE**

Entertainment and spectator sports establishments with a capacity of more than 149 and fewer than 500 persons. Typical uses include theaters and meeting or banquet halls.

**3. LARGE VENUE**

Entertainment and spectator sports establishments with a capacity of 1,000 persons or more. Typical uses include large theaters, cinemas and meeting or banquet halls.

**88-805-04-K. FINANCIAL SERVICES**

Financial or securities brokerage services. Typical uses include banks, savings and loans, credit unions, mortgage companies, check-cashing establishments, pawnshops, and title loan establishments and short-term loan establishments.

**1. BANK**

An establishment that is engaged in the business as a bank or trust company, and is federally chartered or state chartered. "Bank" also includes credit unions that federally or state chartered and mortgage companies that provide mortgage loans as a principal part of their operation, with the loans secured by an interest in real property as collateral for the loan.

**2. CHECK-CASHING ESTABLISHMENT**

A business engaged in cashing checks for members of the general public as a principal purpose of its operation and that is not a bank or savings and loan association or other financial services use defined in this section.

**3. PAWN SHOP**

Businesses that lend money on the security of pledged goods or that is engaged in the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. Pawnshops and pawnbrokers are further governed by Chapter 367 RSMo.

**4. SAVINGS AND LOAN ASSOCIATION**

An establishment that is engaged in the business as a savings and loan association and is federally chartered or state chartered.

**5. SHORT-TERM LOAN ESTABLISHMENT**

A business engaged in providing short-term loans (loans with terms of 31 days or less) to members of the general public as an element of its operation and which is not a bank, savings and loan association, or other financial institution as defined in this chapter. Short-term loan establishments shall include businesses offering payday loans, signature loans, small loans, and other similar loans but do not include pawnshops or title loan establishments. Short-term lending is a principal use of property.

**6. TITLE LOAN ESTABLISHMENT**

A business engaged in providing title loans to members of the general public as an element of its operation and that is not a bank or savings and loan association or other financial services use defined in this section. Title loans are defined as a transaction between a borrower and a lender for which the borrower pledges any titled personal property to the lender as security for a loan received from the lender. Providing title loans is a principal use of property.

**88-805-04-L. FOOD AND BEVERAGE RETAIL SALES**

Retail sale of food and beverages for home consumption. Typical uses include groceries, liquor stores and wine stores.

**88-805-04-M. FUNERAL AND INTERMENT SERVICES**

Provision of services involving the care, preparation or disposition of human dead. The following are funeral and interment services use types:

**1. CEMETERY/COLUMBIARIUM/MAUSOLEUM**

Land or facilities used for burial of the dead, including pet cemeteries.

**2. CREMATING**

Crematory services involving the purification and reduction of the human body by fire. Typical uses include crematories and crematoriums.

**3. UNDERTAKING**

Undertaking services such as preparing the dead for burial and arranging and managing funerals. Typical uses include funeral homes and mortuaries.

**88-805-04-N. GASOLINE AND FUEL SALES**

A building or portion of a building used for offering for sale at retail to the public, fuels, oils and accessories for motor vehicles, where repair service and automobile washing is incidental, where no storage or parking space is offered for rent and where no motor vehicles or boats are offered for sale or rent.

**88-805-04-O. LODGING**

Provision of lodging services on a temporary basis with incidental food, drink and other sales and services intended for the convenience of guests. The following are lodging use types:

**1. BED AND BREAKFAST**

A detached house in which the owner offers overnight accommodations and meal service to guests for compensation.

**2. HOTEL/MOTEL**

An establishment, other than a detached house, in which short-term lodging is offered for compensation and that may or may not include the service of one or more meals to guests. Typical uses include hotels, motels and boarding houses.

**3. RECREATIONAL VEHICLE PARK**

A development site, parcel or tract of land designed, maintained or intended to be used for the purpose of providing short-term accommodation—no more than 30 days—for placement of two or more recreational vehicles, include all buildings used or maintained for the use of the occupants in the recreational vehicle park.

**88-805-04-P. OFFICE**

**1. ADMINISTRATIVE, PROFESSIONAL OR GENERAL OFFICE**

Professional, governmental, executive, management or administrative offices of private organizations or government agencies. Typical uses include administrative offices, law offices, architectural firms, insurance companies and government offices.

**2. MEDICAL OFFICE**

Personal health services including prevention, diagnosis and treatment, rehabilitation services provided by physicians, dentists, nurses and other health personnel and medical testing and analysis services. Typical uses include medical and dental offices, health maintenance organizations, blood banks, plasma centers and government-operated health centers. Excludes use types more specifically classified, such as hospitals.

**88-805-04-Q. PARKING, NON-ACCESSORY**

Parking that is not provided to comply with minimum off-street parking requirements and that is not provided exclusively to serve occupants of or visitors to a particular use, but rather is available to the public at-large. A facility that provides both accessory parking and non-accessory parking is classified as non-accessory parking.

**88-805-04-R. PERSONAL IMPROVEMENT SERVICE**

Informational, instructional, personal improvement and similar services of a nonprofessional nature. Typical uses include hair salons, barber shops, beauty shops, nail salons, health clubs, yoga or dance studios, driving schools and martial arts studios.

**88-805-04-S. REPAIR OR LAUNDRY SERVICE, CONSUMER**

Provision of repair, dry cleaning or laundry services to individuals and households, but not to firms. Excludes vehicle and equipment repair. Typical uses include laundry/dry cleaning drop-off stations (with no dry cleaning on the premises), hand laundries, appliance repair shops, locksmiths, shoe and apparel repair and musical instrument repair.

**88-805-04-T. RESEARCH SERVICE**

An establishment that conducts educational, scientific, high-technology or medical research not involving the mass production, distribution or sale of products. Research services do not produce odors, dust, vibration, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property. Research-related establishments that do produce such external impacts are classified as "manufacturing, production and industrial services."

**88-805-04-U. REUSE OF HISTORIC STRUCTURE**

The reuse of an existing structure on the National Register of Historic Places or locally designated as a landmark.

**88-805-04-V. RESIDENTIAL SUPPORT SERVICES**

Commercial uses provided primarily to serve the needs of residents in large, multi-unit residential buildings or residents within the immediate area. The following are considered residential support services:

1. Restaurants;
2. Financial services, except pawnshops, consumer loan agencies and payday loan stores;
3. Food and beverage retail sales;
4. Medical office (other than blood/plasma center);
5. Administrative, Professional or General Offices;

6. Personal improvement service; and
7. Retail sales establishments.

**88-805-04-W. RETAIL SALES**

Businesses involved in the sale, lease or rent of new or used products, merchandise to consumers. Typical uses include drug stores, grocery stores, department stores and apparel stores.

**88-805-04-X. SPORTS AND RECREATION, PARTICIPANT**

Provision of sports or recreation primarily by and for participants. (Spectators would be incidental and on a nonrecurring basis). Examples include bowling alleys, skating rinks, billiard parlors driving ranges and miniature golf courses, shooting and archery ranges, batting cages, and go-cart tracks.

**88-805-04-Y. VEHICLE SALES AND SERVICE**

Sales of motor vehicles or services related to motor vehicles. The following are vehicle sales and service use types:

**1. CAR WASH/CLEANING SERVICE**

A building or site containing facilities for washing automobiles. It may use automatic production line methods—a chain conveyor, blower, steam cleaning device, or other mechanical device—or it may provide space, water and equipment for hand washing, cleaning or detailing of automobiles, whether by the customer or the operator.

**2. HEAVY EQUIPMENT SALES/RENTALS**

Sale, retail or wholesale and/or rental from the premises of heavy construction equipment, trucks and aircraft, together with incidental maintenance. Typical uses include heavy construction equipment dealers and tractor trailer sales.

**3. LIGHT EQUIPMENT SALES/RENTALS**

Sale, retail, wholesale, or rental from the premises of autos, noncommercial trucks, motorcycles, trailers with less than 10,000 lbs. gross cargo weight, recreational vehicles and boat dealers, together with incidental maintenance. Typical uses include automobile and boat dealers, car rental agencies and recreational vehicle sales and rental agencies.

**4. MOTOR VEHICLE REPAIR, LIMITED**

- (a) A vehicle repair establishment that provides lubrication and/or checking, changing, or additions of those fluids and filters necessary to the maintenance of a vehicle. Customers generally wait in the car or at the establishment while the service is performed. Examples include quick lube services.
- (b) Also included vehicle repair establishments that provide replacement of passenger vehicle parts or repairs that do not involve body work or painting or require removal of the engine head or pan, engine transmission or differential. Examples include tire, muffler and transmission shops.

**5. MOTOR VEHICLE REPAIR, GENERAL**

Any vehicle repair activity other than "minor vehicle repair." Examples include repair or servicing of commercial vehicles or heavy equipment or body work, painting, or major repairs to passenger vehicles.

**6. VEHICLE STORAGE AND TOWING**

Storage of operating motor vehicles or vehicle towing services. Typical uses include towing services, private parking tow-aways (tow lots), impound yards and fleet storage yards. Includes the use of a site for temporary storage of motor vehicles for a period of not more than 15 days, not including temporary storage facilities for vehicles that are to be sold, rented, salvaged, dismantled, repaired or returned to owners upon payment of towing and storage fees.

**88-805-05 INDUSTRIAL USE GROUP**

The industrial use group includes uses that produce goods from extracted materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced. It also includes uses that store or distribute materials or goods in large quantities. The industrial use group includes the following use categories:

**88-805-05-A.JUNK/SALVAGE YARD**

An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A junk or salvage yard includes an auto wrecking yard, but does not include waste-related uses or recycling facilities.

**1. AUTO WRECKING**

The collecting and dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts.

**88-805-05-B. MANUFACTURING, PRODUCTION AND INDUSTRIAL SERVICES**

**1. ARTISAN**

On-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing and similar types of arts and crafts or very small-scale manufacturing uses that have no negative external impacts on surrounding properties.

**2. LIMITED**

Manufacturing of finished parts or products, primarily from previously prepared materials. Typical uses include: catering establishments, printing and related support activities; machinery manufacturing; food manufacturing; computer and electronic product manufacturing/assembly; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; and other manufacturing and production establishments that typically have very few, if any, negative external impacts on surrounding properties.

**3. GENERAL**

- (a) Manufacturing of finished or unfinished products, primarily from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Typical uses include: textile mills; textile product mills; apparel manufacturing; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; transportation equipment manufacturing; primary metal manufacturing; and fabricated metal product manufacturing. Also includes medical, scientific or technology-related research establishments that produce odors, dust, vibration, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property.
- (b) Industrial service firms engaged in the repair or servicing of industrial or commercial machinery, equipment, products or by-products. Typical uses include: welding shops; machine shops; industrial tool repair; fuel oil distributors; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photo-finishing laboratories. Excludes uses classified as "repair or laundry services."

**4. INTENSIVE**

Manufacturing of acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins and radioactive materials. Also includes smelting, animal slaughtering and oil refining.

**88-805-05-C. MINING/QUARRYING**

The extraction of mineral or aggregate resources from the ground for off-site use. Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil and gas drilling.

**88-805-05-D. RECYCLING SERVICE**

Any building, portion of building or area in which recyclable material is collected, stored, or processed for the purpose of marketing the material for use as raw material in the manufacturing process of new, reused or reconstituted products.

**1. LIMITED**

A recycling facility in which recyclable materials are temporarily stored or collected, or processed by manual separation. (Note: consumer-oriented collection boxes for newspapers, cans and glass items are considered an accessory use and may be allowed in any zoning district.)

**2. GENERAL**

A recycling facility that, in addition to any activity permitted as part of a limited recycling service, engages in processing of recyclable materials such as cleaning, bundling, compacting or packing of recyclable materials.

**88-805-05-E. RESIDENTIAL STORAGE WAREHOUSES**

Storage or warehousing service within a building for individuals to store personal effects and for businesses to store materials for operation of an industrial or commercial enterprise elsewhere. Incidental uses in a residential storage warehouse may include the repair and maintenance of stored materials by the tenant; but in no case may storage spaces in a residential storage warehouse facility function as an independent retail, wholesale, business, or service use. Spaces may not be used for workshops, hobby shops, manufacturing, or similar uses. Human occupancy is limited to that required to transport, arrange and maintain stored materials.

**88-805-05-F. WAREHOUSING, WHOLESALING AND FREIGHT MOVEMENT**

Storage, wholesale sales and distribution of materials and equipment. Typical uses include storage warehouses, moving and storage firms, trucking or cartage operations, truck staging or storage areas, wholesale sales of materials and equipment to parties other than the general public.

**88-805-05-G. WASTE-RELATED USE**

Waste-related uses are characterized by the receiving of solid or liquid wastes from other users and sites for transfer to another location; by the collection of sanitary wastes, or other approved waste materials for on-site disposal; or by the manufacture or production of goods or energy from the composting of organic material.

**1. DEMOLITION DEBRIS LANDFILL**

A facility or site used for the disposal of demolition waste, construction materials, used building materials, brush, wood waste, soil, rock, concrete and inert solids soluble in water.

**2. SOLID WASTE SEPARATION FACILITY**

A facility where mixed municipal solid waste is separated into recovered materials and other components either manually or mechanically and further processed for transporting to other facilities, including a solid waste disposal area.

**3. TRANSFER STATION**

A facility for the transfer and packing of solid waste from smaller collecting vehicles to larger transport vehicles.

**88-805-06 OTHER USE GROUP**

The "other" use group includes the following:

**88-805-06-A.AGRICULTURE, CROP**

The use of land for the production of row crops, field crops, tree crops; timber, bees, apiary products, or fur-bearing animals.

**88-805-06-B.AGRICULTURE, ANIMAL**

The feeding, breeding, raising or holding of cattle, swine, poultry or other livestock, whether held in a confinement area or open pasture.

### **88-805-06-C. WIRELESS COMMUNICATION FACILITY**

Facilities related to the use of the radio frequency spectrum for the purposes of transmitting or receiving radio signals, and may include, but is not limited to radio towers, television towers, telephone exchanges, micro-wave relay towers, telephone transmission equipment buildings, commercial mobile radio service facilities or other personal wireless services (such as cellular, personal communication service [PCS], paging, specialized mobile radio [SMR], and other similar services). This use category includes all associated equipment unless the written context clearly indicates that another meaning is intended. The term “associated equipment” is to be read broadly and in context. Associated equipment may include, but is not limited to: antenna, equipment shelter or platform, lighting, monopole tower, mounting hardware, supporting electrical or mechanical equipment, access road, and guy system.

#### **1. CO-LOCATED FACILITY**

A wireless telecommunication facility that is attached to an existing pole, tower, or other structure including, but not limited to, a structure that can accommodate the future installation of 2 or more antenna systems.

#### **2. FREESTANDING FACILITY**

A new tower, monopole, or other unattached structure erected to support wireless communication antennas and connecting appurtenances.

## **88-810 DEFINITIONS**

### **ACCESSORY PARKING**

Parking provided to comply with minimum off-street parking requirements and non-required parking that is provided exclusively to serve occupants of or visitors to a particular use, rather than the public at-large.

### **ACCESSORY STRUCTURE**

A structure that is subordinate in area, extent and purpose to the principal use and building on the zoning lot and that is customarily used in conjunction with a permitted accessory use.

### **ACCESSORY USE**

A use that is subordinate in area, extent and purpose to the principal use on the zoning lot and that is customarily found in conjunction with a permitted principal use.

### **ADMINISTRATIVE ADJUSTMENT**

Modification of an otherwise applicable standard, approved in accordance with Article 88-570.

### **ADULT MEDIA**

Magazines, books, videotapes, movies, slides, cd-roms, digital video discs, other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

### **AGENT**

A person duly authorized to act on behalf of a property owner.

**ALLEY**

A public right-of-way that affords a secondary means of access to abutting property.

**ALLOWED USE**

A permitted use or special use in the subject zoning district.

**APPEAL**

Request for review of a final order, interpretation or decision.

**ARCHITECTURAL ATTRIBUTES**

Physical features of buildings.

**AUTOMATED TELLER MACHINE**

An electronically powered machine activated by means of a coded celluloid card or other similar device that permits banking transactions.

**AWNING**

An architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached.

**BASE (ZONING) DISTRICT**

Any zoning district that is not an overlay district.

**BEST MANAGEMENT PRACTICES (BMPS)**

Products, techniques, or methods that have been shown to be the most reliable and effective way to minimize adverse impacts on natural resources, particularly stormwater quality.

**BLOCK**

A piece or parcel of land entirely surrounded by public highways, streets, streams, railway rights-of-way or parks, or a combination. The city planning and development director may decide any question regarding the limits or extent of a block.

**BLOCK FACE**

All lots abutting one side of a street between the two nearest intersecting streets.

**BOND**

A form of surety or guaranty agreement which contains the promise of a third party, usually a bonding company, to complete or pay for the cost of completion of public improvements if the developer defaults.

**BOOK STORE**

An exclusive term, identifying a category of business that may include adult media but that is not regulated as an adult media store. In this context, book store means a retail store offering for sale or rent books, magazines or other printed material for consumption or enjoyment off the premises, provided that any store in which material falling within the definition of "adult media" constitutes more than 40% of the stock in trade and/or occupies more than 40% of the gross public floor area is deemed an "adult media store." See special conditions in applicable zoning districts for book stores in which adult media constitutes more than 10% but not more than 40%

of the stock in trade or occupies more than 10% but not more than 40% of the gross public floor area.

**BROOKSIDE BUSINESS DISTRICT AREA**

Generally bounded by Wornall Road, Brookside Boulevard and KCATA right of way on the west; Main Street on the east; a line approximately 140 feet north of 63rd Street, 62nd Terrace and a line approximately 120 feet north of 62nd Terrace on the north; and lines approximately 150 feet, 110 feet and 250 feet north of Meyer Boulevard and a line approximately 130 feet south of 63rd Street on the south.

**BUILDING**

Any structure that is permanently affixed to the land and built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

**BUILDING, COMPLETELY ENCLOSED**

See "completely enclosed building."

**BUILDING COVERAGE**

The amount of a lot covered by buildings.

**BUILDING HEIGHT**

The vertical distance from grade to a fixed point on the building. (See 88-820-13 for rules governing measurement of building height)

**BUILDING LINE**

An imaginary line representing the actual location of an exterior building wall.

**BUILDING, PRINCIPAL**

See "principal building."

**BUILDING, RESIDENTIAL**

See "residential building."

**CARRIAGE HOUSE**

An accessory building containing a private garage and one dwelling unit. See also 88-305-05.

**CERTIFICATE OF APPROPRIATENESS**

A certificate issued by the landmarks commission, historic preservation commission or other city design review board to indicate its approval of an application for an exterior alteration for which the board or commission has review authority.

**CERTIFICATE OF LEGAL NONCONFORMANCE**

A determination that a legal nonconformance has been established. A certificate of occupancy for a legal nonconforming use, as previously required, will be deemed to be a certificate of legal nonconformance.

**CIVIC ORGANIZATION**

An association of neighborhoods, businesses, cultural institutions or individuals, who work together formally to promote business development and collaborate to develop healthy neighborhoods.

**CLEARING**

Any act that removes vegetative cover, structures or surface material, including, but not limited to, topsoil, root mat, or surface layer removal.

**COMMERCIAL ESTABLISHMENT**

A business classified in the commercial use group (See 88-805-04), the ownership, management and physical location of which are separate and distinct from those of any other place of business located on the same zoning lot, as partly evidenced by maintaining separate and distinct doors and access points.

**COMMERCIAL MESSAGE**

A message which directs attention to a business operated for profit, or to a product, commodity or service for sale or lease, or to any other commercial interest or activity.

**COMMON OPEN SPACE**

An outdoor area designated and intended for the common use and enjoyment of residents or occupants of the development or other members of the controlling association.

**COMPLETELY ENCLOSED BUILDING**

A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

**CONDOMINIUM**

A system of separate ownership of individual units with each unit owner entitled to a percentage ownership in the common elements evidenced by the recording of a plat and declaration of condominium pursuant to RSMo ch. 448.

**CORNER LOT**

A lot situated at the intersection of 2 streets, the interior angle of such intersection not exceeding 135 degrees.

**CONSTRUCTION PLAN**

The maps or drawings prepared by a registered professional engineer accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision, as a condition of the approval of the plat.

**CROSSROADS AREA**

The area of the city included within the following boundaries: Truman Road on the north, Troost Avenue on the east, the Kansas City Terminal Railway tracks on the south, and by Broadway Avenue between Truman Road and Southwest Boulevard and by Interstate 35 between Southwest Boulevard and the Kansas City Terminal Railway tracks on the west.

**CUL-DE-SAC**

A local street with only one outlet and having a terminal for the safe and convenient reversal of traffic movement.

**CULTURAL ATTRIBUTES**

All of those physical features of an area that either independently or by virtue of their interrelationship are generally identified and described as being important products of human

thought and action characteristic of a population or community. The term "cultural attributes" includes "architectural attributes." The term "cultural attributes" does not refer to the characteristics or beliefs of people who may reside in or frequent a particular area.

**CURB LEVEL**

The mean level of the curb in front of the lot, or, in case of a corner lot, along the abutting street where the mean curb is the highest.

**DATE OF APPROVAL/DECISION**

The date the authorized decision-maker or decision-making body took final action.

**DECK**

An exterior floor system elevated more than 30 inches from the ground and supported on at least 2 opposing sides by an adjoining building and/or posts, piers, or other independent supports.

**DENSITY**

The general term used to refer to the number of dwelling units allowed per unit of land area. It is expressed in this zoning and development code in terms of a minimum amount of lot area required per dwelling unit (minimum lot area per dwelling unit).

**DETACHED HOUSE**

A dwelling unit that is located on its own lot and that is not attached to any other dwelling unit.

**DEVELOPMENT APPLICATION**

Any application or petition for approval in accordance with the review and approval procedures of this zoning and development code.

**DEVELOPMENT DISTRICT**

A district that is established through approval of a major site plan, master planned district, or urban redevelopment district, or a plan approved by the city council prior to the effective date of this ordinance.

**DRIVE-THROUGH FACILITY**

See 88-805-04-H

**DEVELOPMENT**

Any tract of land made suitable for or containing institutional, residential, commercial, or industrial buildings, parking, and/or infrastructure.

**DEVELOPER**

The person or entity undertaking the act of development. In the case of subdivisions, "developer" means the same as "subdivider."

**DOWNTOWN LOOP**

The area of the city bounded by Interstate 35/70 on the north, Interstate 70 on the east; Interstate 670 on the south, and Interstate 35 on the west.

**DWELLING UNIT**

One or more rooms arranged, designed or used as independent living quarters for a single household. Buildings with more than one kitchen or more than one set of cooking facilities are

deemed to contain multiple dwelling units unless the additional cooking facilities are clearly accessory and not intended to serve additional households.

**EASEMENT**

Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**EDGE OF STREAM**

The limits of the stream when the discharge is equal to the 50% storm flow based on rural conditions land use. Rural conditions land use flows can be estimated from U.S. Geological Survey regression equations.

**ELDERLY HOUSING**

Dwelling units specially designed and marketed for persons who are 62 years of age or older, but not including buildings containing equipment for surgical care or for the treatment of disease or injury, other than emergency first-aid-care.

**ENCROACHMENT**

For the purposes of interpreting Article 88-415, "encroachment" is a temporary or permanent activity (such as clearing vegetation or constructing a permanent improvement) that occurs within a stream setback zone that is expressly prohibited within that zone in accordance with 88-415-04. Mitigation activities are not considered encroachment.

**EROSION**

Process by which the ground surface is worn away by the action of wind, water, ice, gravity, or artificial means, and/or land disturbance.

**FAÇADE**

The exterior plane or "face" of a building.

**FLOODPLAIN**

The floodway or floodway fringe as identified by the Federal Emergency Management Agency or otherwise designated by the City of Kansas City, Missouri.

**FLOOR AREA RATIO (FAR)**

The ratio of the floor area of all principal buildings to the total area of the lot upon which such buildings are located. (See Chapter 18 for rules governing measurement of floor area ratio)

**FOOTPRINT AREA**

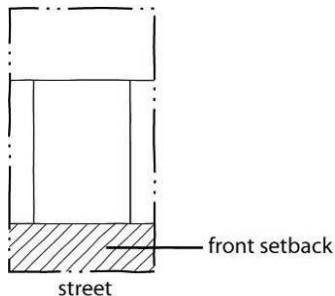
The floor area at grade or the first floor if elevated above grade of an accessory building or structure and includes any enclosed area therein for the parking of motor vehicles, areas of the building not provided with surrounding walls must be included in the building area if such areas are included within the horizontal projection of the roof or floor above.

**FRONT PROPERTY LINE**

That property line that abuts or is along an existing or dedicated public street, or when no public street exists, is along a public way. On lots with multiple street frontages, the property owner may select either street property line as the front property line.

### **FRONT SETBACK**

The setback required between a building and the front property line of the lot on which the building is located, extending along the full length of the front property line between the side property lines.

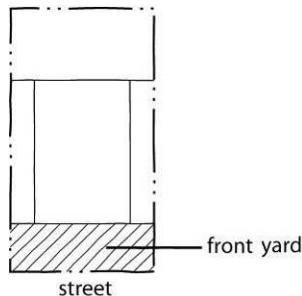


### **FRONT WALL**

In buildings that contain more than one dwelling unit on a single floor, front walls and rear walls are those walls that are generally perpendicular to the party walls between dwelling units. In buildings that do not contain more than one dwelling unit on a single floor, the front wall is the wall that is generally parallel and closest to the front property line and the rear wall is the exterior building wall opposite the front wall.

### **FRONT YARD**

The actual area that exists between a building and the front property line of the lot on which the building is located, extending along the full length of the front property line between the side property lines. See also "Setback, Front."



### **FRONTAGE**

That side of a lot abutting a street

### **HOME OCCUPATION**

An accessory use of a dwelling unit for business or commercial purposes. Home occupations are subject to the standards of 88-305-04.

### **HOUSEHOLD**

Household means an individual; or two or more persons related by blood, marriage or adoption; or a group of not more than five persons, excluding servants, who need not be related by blood or marriage, living together and subsisting in common as a separate nonprofit housekeeping unit which provides one kitchen; or a group of eight or fewer unrelated mentally or physically handicapped persons, which may include two additional persons acting as houseparents or

guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home.

**INDUSTRIAL ESTABLISHMENT**

A business classified in the industrial use group (See 88-805-05), the ownership, management and physical location of which are separate and distinct from those of any other place of business located on the same zoning lot, as partly evidenced by maintaining separate and distinct doors and access points.

**INTERIOR SIDE PROPERTY LINE**

A side property line that does not abut a street or alley.

**LANDSCAPED**

Substantially covered with grass, ground cover, shrubs, trees or other living plant material.

**LOT**

A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

**LOT, CORNER**

See "corner lot."

**LOT, INTERIOR**

A lot whose side lines do not abut a street.

**LOT, REVERSED CORNER**

See "reversed corner lot."

**LOT SPLIT**

A subdivision of land for the purpose of transfer of ownership that does not contain more than three lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the master plan, the major street plan, or this zoning and development code.

**LOT, THROUGH**

See "through lot."

**LOT, ZONING**

See "zoning lot."

**LUMINOUS TUBE (LIGHTING)**

A glass tube filled with a gas or gas mixture (including neo, argon, mercury or other gases), usually of small diameter (10–15 mm), caused to emit light by the passage of an electronic current and commonly bent into various forms for use as decoration or signs. Does not include common fluorescent lights.

**MAJOR STREET PLAN**

The plan established by the city, pursuant to RSMo 89.480, showing the general alignment and functional classification of streets, highways and parkways of an ultimate urban arterial network. The purpose of this plan is to guide development of the arterial street network and to identify appropriate street rights-of-way to be secured at the time of subdivision platting. The plan may be amended, added thereto or otherwise refined by the subdivision platting process or by the plan commission and city council.

**MAJOR THOROUGHFARE (STREET)**

Streets having, as their primary purpose, to provide for through traffic movement between areas and across the city, and having, as their secondary purpose, direct access to abutting property, subject to necessary control of entrances, exits and curb use and as further defined in the major street plan as primary or secondary arterials.

**MANUAL OF BEST MANAGEMENT PRACTICES FOR STORMWATER QUALITY**

Stormwater BMP planning and design reference approved by the American Public Works Association and the Mid-America Regional Council in September 2003, or the most current version adopted by the city.

**MARQUEE**

Any hood of noncombustible construction projecting more than 12 inches from the wall of a building above an entranceway and having a roof area greater than 12 square feet.

**MASTER PLAN**

A comprehensive plan for development of the city or any of its geographical parts, prepared and adopted by the plan commission, pursuant to RSMo 89.340, and includes any part of such plan separately adopted and any amendment to such plan or parts of the plan.

**MATURE RIPARIAN VEGETATION**

Vegetation adjacent to a stream consisting predominantly of mature trees (10-inch diameter breast height or greater), where at least 50% of the mature trees are of riparian or bottomland species as defined by *The Terrestrial Natural Communities of Missouri* (Nelson 2006).

**MATURE VEGETATION**

For the purposes of interpreting Article 88-415, vegetation consisting predominantly of mature trees (10-inch diameter breast height or greater).

**MEDIA**

Anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but is not necessarily limited to books, newspapers, magazines, movies, videos, sound recordings, CD-ROMSs, digital video discs, other magnetic media, and undeveloped pictures.

**MEDIA STORE**

An exclusive term, identifying a category of business that may include adult media but that is not regulated as an adult media store. In that context, media store means a retail store offering media for sale or rent for consumption or enjoyment off the premises; provided that any store in which adult media constitutes more than 40% of the stock in trade and/or occupies more than 40% of the gross public floor area is deemed an "adult media store." See special conditions in applicable

zoning districts for media stores in which adult media constitutes more than 10% but not more than 40% of the stock in trade or occupies more than 10% but not more than 40% of the gross public floor area. This definition intentionally includes and is intentionally broader than the definition of "book store" and "video store."

### **MOTION PICTURE ARCADE BOOTH**

Any booth, cubicle, stall or compartment that is designed, constructed or used to hold or seat patrons and is used for presenting or viewing motion pictures or viewing publications that are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" by any photographic, electronic, magnetic tape, digital or other medium (including, but not limited to, film, video, magnetic tape, laser disc, digital video disc, cd-rom, books, magazines or periodicals) for observation by patrons therein. The terms "booth," "arcade booth," "preview booth," "video arcade booth," and "media room" are synonymous with the term "motion picture arcade booth." A motion picture arcade booth does not mean a theater, moviehouse, playhouse or a room or enclosure or portion thereof that contains more than 150 square feet. No part of this definition may be construed to permit more than one person to occupy a motion picture arcade booth at any time.

### **MOTION PICTURE ARCADE BOOTH ESTABLISHMENT**

Any business wherein one or more motion picture arcade booths are located. The terms "establishment" and "video arcade" are synonymous with "motion picture arcade booth establishment."

### **MOTOR VEHICLE**

Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.

### **MULTI-UNIT RESIDENTIAL**

A residential building that contains 3 or more dwelling units that share common walls or common floors/ceilings with one or more dwelling units. The land upon which the building sits is not divided into separate lots.

### **MUNICIPALITY**

The city and any other body politic, whether it is a city, town, village or political subdivision of this state, organized under the constitution of the state or under the laws of this state and by law for decision of the highest court of this state determined to be a municipal corporation.

### **NEIGHBORHOOD ASSOCIATION**

A group of homeowners, renters, apartment dwellers, and representatives from neighborhood businesses, churches, and schools who organize to improve conditions in the neighborhood. Neighborhood association membership is voluntary or informal. Most neighborhood associations have regularly scheduled meetings, elect board of directors, and have by-laws. A neighborhood association is a recognized non-profit organization formed by residents in a designated neighborhood or community.

### **NEIGHBORHOOD ORGANIZATION**

A group of individual residents and owners of real property (including businesses), within a certain defined geographic area of the city or a coalition of such groups, voluntarily formed for

the purpose of collectively addressing issues and interests common to property owners within the defined area.

**NEW DEVELOPMENT**

New buildings constructed and new land uses established in all zoning districts.

**NONCOMMERCIAL MESSAGE**

A message which does not direct attention to a business operated for profit, or to a product, commodity or service for sale or lease, or to any other commercial interest or activity.

**NONCONFORMING LOT**

A lawfully created lot, shown on a plat or survey map recorded in the appropriate recorder of deeds office that does not comply with the most restrictive minimum lot area or lot width standards of the zoning district in which the lot is now located.

**NONCONFORMING SIGN**

A sign that was lawfully established, in accordance with zoning and other sign regulations in effect at the time of its establishment but that is no longer allowed by the regulations of this zoning and development code.

**NONCONFORMING STRUCTURE**

A any building or structure, other than a sign, that was lawfully established but no longer complies with the lot and building standards of this zoning and development code.

**NONCONFORMING USE**

A land use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is now located. Lawfully established uses that do not comply with separation distance requirements are also deemed nonconforming uses.

**NONCONFORMITY**

Any nonconforming building, nonconforming development, nonconforming lot, nonconforming sign or nonconforming use.

**NONRESIDENTIAL DISTRICT**

Any zoning district other than a residential (R) district.

**OFF-SITE**

Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

**OPERATOR**

Any person operating, conducting or maintaining an adult business.

**ORIENTATION**

The directional placement of a structure in relation to its surroundings, the street, and other structures.

**OVERLAY DISTRICT**

A zoning district that over-lays one or more base zoning districts and imposes requirements in addition to those of the base district or modifies the standards otherwise applicable in the base district.

**OWNER**

See "property owner."

**OWNER-OCCUPIED**

A dwelling unit occupied as a principal residence by a person who either:

- owns a 50% or greater fee interest in the dwelling; or
- owns and/or controls a trust, corporation, limited liability company, partnership or other legal entity that owns the fee interest in the dwelling.

**PERMITTED USE**

A use permitted as-of-right in the subject zoning district in accordance with the applicable use regulations of this zoning and development code.

**PLAT**

A scale drawing showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys, easements, street grades, etc. The drawing represents the lines surveyed, established, retraced or resurveyed; the direction and length of each such line, and the relationship to adjoining official surveys; and the boundaries and area of the land subdivided.

**PRELIMINARY PLAT**

A preliminary plat, map or drawing on which the layout, design and other pertinent facts about the proposed subdivision are shown. The preliminary plat illustrates the applicant's ideas and intentions in the proposed subdivision and outlines graphically, and to the extent necessary, describes in writing the existing conditions of the site. The preliminary plat consists of two basic parts:

- The general location map of the vicinity; and
- A detailed plan drawn to scale showing the proposed layout for all features in the subdivision.

**PRINCIPAL BUILDING**

A building or combination of buildings of chief importance or function on a lot. In general, the principal use is carried out in a principal building. The difference between a principal building and an accessory building or structure is determined by comparing the size, placement, similarity of design, use of common building materials, and the orientation of the structures on the lot.

**PRINCIPAL USE**

An activity or combination of activities of chief importance on the lot. One of the main purposes for which the land, buildings or structures are intended, designed, or ordinarily used.

**PRIVATE CLUB**

A building and necessary grounds used for and operated by a nonprofit organization, membership to which is by invitation and election according to qualifications in the club's charter and bylaws.

**PRIVATE SEWAGE DISPOSAL SYSTEM**

A septic tank, seepage tile sewage disposal system or any other sewage treatment device approved by the appropriate city departments or state agency.

**PRODUCT DISPLAY WINDOW**

An illuminated window display area in which products and goods are displayed to pedestrians but that do not generally allow visibility into the interior of the building.

**PROPERTY LINE**

The boundary of a lot, as shown on a plat of subdivision recorded or registered pursuant to statute or as designated by the lot's owner or developer as the boundary of a parcel of land to be used, developed, or built upon as a unit, under single ownership or control.

**PROPERTY LINE, FRONT**

See "front property line."

**PROPERTY LINE, REAR**

See "rear property line."

**PROPERTY LINE, SIDE**

See "side property line."

**PROPERTY OWNER**

The legal or beneficial owner of an improved or unimproved parcel of real estate.

**PUBLIC DISPLAY**

The act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway or public sidewalk, or from the property of others, or from any portion of the person's store or property where items and material other than adult media are offered for sale or rent to the public.

**PUBLIC IMPROVEMENT**

Any drainage ditch, roadway, parkway, storm sewer, sanitary sewer, water main, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the city may ultimately assume the responsibility for maintenance and operation or that may affect an improvement for which city responsibility is established.

**PUBLIC PARK**

Any park or parkland owned and operated by the city, county, state or federal government.

**RAPID TRANSIT STOP**

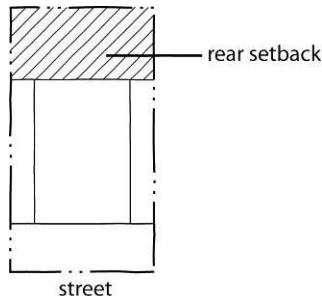
An designated area for loading and unloading passengers from light rail or bus rapid transit vehicles, including MAX (Metro Area Express) buses.

**REAR PROPERTY LINE**

That property line that is most distant from and is most parallel to the front property line.

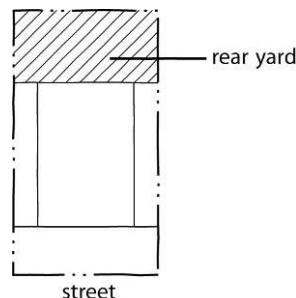
**REAR SETBACK**

The setback required between a building and the rear property line of the lot on which the building is located, extending along the full length of the rear property line between the side property lines.



**REAR YARD**

The actual area that exists between a building and the rear property line of the lot on which the building is located, extending along the full length of the rear property line between the side property lines. See also "Setback, Rear."



**REGISTERED LAND SURVEYOR**

A land surveyor properly licensed and registered in the state.

**REGISTERED PROFESSIONAL ENGINEER**

An engineer properly licensed and registered in the state.

**RESIDENTIAL BUILDING**

A building that is arranged, designed, used or intended to be used:

- exclusively for residential occupancy by one or more families; or
- for a mixture of nonresidential and residential occupancy and in which the floor area devoted to residential dwelling units makes up 50% or more of the building's total gross floor area.

**RESIDENTIAL DISTRICT**

Any R or DR zoning district.

**RIGHT-OF-WAY**

A strip of land occupied or intended to be occupied by a street, crosswalk, railroad or road or for another special use. The usage of the term “right-of-way” for land platting purposes means that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks or any other special use involving maintenance by a public agency must be dedicated to public use by the maker of the plat on which such right-of-way is established.

**RIPARIAN VEGETATION**

Vegetation that exists within and is adapted to land adjacent to a water body (stream, river, lake), as defined by *The Terrestrial Natural Communities of Missouri* (Nelson 2006).

**ROADWAY**

The paved portion of street right-of-way, between the curbs.

**SALE OR LEASE**

Any immediate or future transfer of ownership, including a contract of sale or transfer of an interest in a subdivision or part of a subdivision, whether by metes and bounds, deed, contract, plat, map or other written instrument.

**SAME OWNERSHIP**

Ownership by the same person, corporation, firm, entity, partnership or unincorporated association; or ownership by different corporations, firms, partnerships, entities or unincorporated associations, in which a stockholder, partner or associate or a member of his family owns as interest in each corporation, firm, partnership, entity or unincorporated association.

**SATELLITE DISH ANTENNA**

A device designed or used for the reception or the transmission of television or other electric communication signal broadcast or, relayed from a satellite. It may be a solid, open mesh, or bar configured structure, in the shape of a shallow dish or parabola.

**SCALE**

The relationship of the mass and size of a building to other buildings and humans.

**SETBACK**

An open, unobstructed area that is required by this zoning and development code to be provided from the furthermost projection of a structure to the property line of the lot on which the building is located.

**SETBACK, FRONT**

See “front setback.”

**SETBACK, REAR**

See “rear setback.”

**SETBACK, SIDE**

See “side setback.”

**SEXUALLY-ORIENTED TOYS OR NOVELTIES**

Instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

**SHORT-TERM LOAN ESTABLISHMENT**

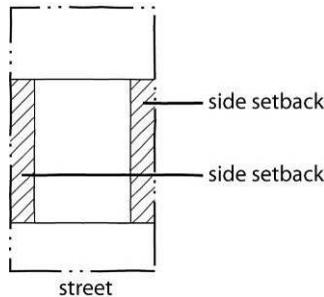
A business engaged in providing loans with terms of 31 days or less to members of the general public as an element of its operation and which is not a bank, savings and loan association, or other financial institution as defined in this chapter. Short-term loan establishments include businesses offering payday loans, signature loans, small loans, and other similar loans but do not include pawnshops or title loan establishments. Short-term lending is a principal use of the property.

**SIDE PROPERTY LINE**

Any property line that is not a front property line or a rear property line.

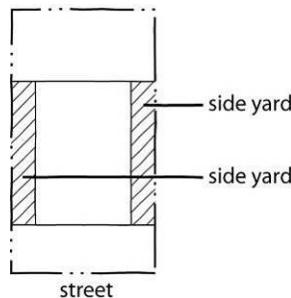
**SIDE SETBACK**

The setback required between a building and the side property line of the lot on which the building is located, extending along a side property line from the point of the minimum front setback to the point of the minimum rear setback.



**SIDE YARD**

The actual area that exists between a building and the side property line of the lot on which the building is located, extending along a side property line from the point of the minimum front setback to the point of the minimum rear setback. See also "Setback, Side."



**SIGN**

Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure or surface.

**SIGN, ADVERTISING COPY**

All letters, numbers and symbols constituting an advertising message.

**SIGN, ANIMATED**

Any sign with moving, rotating (other than on a vertical axis) or other mechanical parts, including banners, pennants or other advertising devices strung across a building or premises, which relies upon wind currents to create movement or the illusion of movement.

**SIGN, BUSINESS ADVERTISING**

An on-premises sign, other than an outdoor advertising, incidental or interim sign as defined by this chapter, which directs attention to a business, commodity, service, activity or product sold, conducted or offered on the premises where such sign is located.

**SIGN, CABINET**

A sign with text or symbols printed on a plastic or acrylic sheet that is mounted on a box or cabinet that houses the lighting source and equipment.

**SIGN, CHANGEABLE COPY PANEL**

Any panel which is characterized by changeable copy, illuminated or unilluminated, regardless of method of attachment.

**SIGN, CHANNEL**

A sign comprised of fabricated or formed three-dimensional letters, numbers, and/or symbols.

**SIGN, DIGITAL**

A sign or component of a sign that uses changing lights to form a message or series of messages that are electronically programmed or modified by electronic processes.

**SIGN, INCIDENTAL**

A sign which guides or directs pedestrian or vehicular traffic.

**SIGN, WALL**

A sign which is either painted on or affixed in some way to an exterior wall of a building or structure and which projects not more than 12 inches from the wall and presents only one face with advertising copy to the public.

**SIGN, AWNING, MARQUEE, OR CANOPY**

A sign that is attached to the side of an awning, marquee or canopy that extends from the building and covers the walkway.

**SIGN, MONUMENT**

A sign placed upon a base that rests upon the ground where the width of the base of the sign is a minimum of 75 percent of the width of the longest part of the sign.

**SIGN, OUTDOOR ADVERTISING**

An off-premises sign which directs attention to a business; commodity, service, activity or product sold, conducted or offered off the premises where such sign is located.

**SIGN, PORTABLE**

Any sign that is not permanently attached to the ground or other permanent structure, or a sign that is designed to be transported by means of wheels, skids or other similar device.

**SIGN, PROJECTING**

A sign which is affixed in some way to an exterior wall of a building or structure and which projects perpendicularly from an exterior wall or radially from a corner of a building or structure and presents two faces with advertising copy to the public.

**SIGN, ROOF**

A sign, any part of which extends above the low point of a roof or parapet wall of a building and which is wholly or partially supported by the building.

**SIGN STRUCTURE**

A structure which ordinarily serves no other purpose than to support a sign. Structures or symbols such as statuary or similar devices that are used for advertising purposes will be construed as a business advertising sign or as an outdoor advertising sign, as the case may be.

**SIGN, INTERIM**

A sign that is designed to be used only for a specified period and not permanently mounted to a structure or permanently installed in the ground.

**SIGN, TRI-VISION**

A sign which, by the intermittent, simultaneous revolving of portions of its surface area, exhibits different messages in succession on the surface area, but with only one message viewable at any one time. Tri-vision signs are not considered animated signs.

**SIGN, UNDER-MARQUEE**

A lighted or unlighted display attached to the underside of a marquee, awning or canopy and protruding over private sidewalks or rights-of-way.

**SIGN, WIND-BLOWN**

A sign consisting of balloons or objects designed and fashioned in such a manner as to move when subjected to wind pressure.

**SIGNAGE, REPLACEMENT**

Signage which is being changed to accommodate changing tenants.

**SINGLE-PURPOSE RESIDENTIAL BUILDING**

A building in which the majority of floor area on all floors of the building are occupied by residential dwelling units or accessory uses to the principal (residential) use of the building. A building in which the ground floor contains parking and the upper floors contain residential dwellings is a single-purpose residential building. If more than 50% of the floor space on the ground floor is occupied by commercial use, the building is not a single-purpose residential building, but is rather a mixed-use building.

**SLOPE**

The ratio of vertical distance over horizontal distance.

**SPECIFIED SEXUAL ACTIVITIES**

Sexual conduct, being actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact, in an act of apparent sexual simulation or gratification, with a person's clothed or unclothed genitals, pubic area or buttocks, or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification, as such terms are defined in the pornography and related offenses chapter of the state's criminal code (RSMo ch. 573).

**STABLE (AREA)**

An area that is expected to remain substantially the same over the next 20 years with continued maintenance of the property. While some changes in buildings, land uses, and densities may occur, all such changes are expected to be compatible with surrounding development.

**STABILIZING (AREA)**

An area that is expected to become stable over the next 20-year period through continued reinvestment, maintenance, or remodeling.

**STANDARDS, SPECIFICATIONS AND DESIGN CRITERIA, CITY**

The department of public works' *Standards, Specifications and Design Criteria* and the department of water services' *Standards, Specifications and Design Criteria*, as adopted, supplemented and revised in accordance with the procedures of Article 88-590.

**STORY**

That part of a building included between the surface of any floor and the surface of the floor next above, or, if there is no floor above, then the space between such floor and the ceiling next above it. A top story attic is a half-story when at least two of its opposite sides are situated in a sloping roof and the floor area of the attic does not exceed two-thirds of the floor area immediately below it. An unoccupied, unimproved basement is not be considered a story.

**STREAM**

A body of running water moving over the earth's surface and flowing at least part of the year, as designated on the *Kansas City Natural Resource Protection Map*. Storm sewer systems, human-made channels (except those designed to function as natural streams), and roadside ditches are not considered streams.

**STREAM BUFFER**

Vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake, or reservoir.

**STREAM CHANNEL**

The streambed and its banks.

**STREAM CORRIDOR**

The stream channel and adjacent floodplains, wetlands, slopes over 15%, and mature riparian vegetation.

**STREAM REACH**

For the purposes of this ordinance, a stream reach is the continuous length of stream of the same stream order (Strahler 1952); for example, a 1<sup>st</sup> order stream reach ends when another first order stream joins it, forming a 2<sup>nd</sup> order stream.

**STREET**

A thoroughfare available to the public that affords the principal means of access to abutting property.

**STREET CLASSIFICATIONS**

An assignment of functional character and carrying capacity to streets and highways officially given in the major street plan adopted by the city council.

**STREET, COLLECTOR**

A street providing traffic movement between major streets and local streets and direct access to abutting property.

**STREET FRONTAGE**

Any portion of a lot that abuts a street.

**STREET LINE**

The dividing line between the street and the lot.

**STREET, LOCAL**

A street providing direct access to abutting property, and for local traffic movement within small areas. The function of a local street generally terminates at collector or, in some instances, major streets; however, the prime function is to serve abutting properties.

**STREET, MAJOR**

A street providing through traffic movement between areas and across the city and direct access to abutting property, subject to necessary control of entrances, exits and curb use. Major streets are identified on the major street plan and are given a function designation as either primary or secondary arterials.

**STREET, PERIMETER**

Existing traveled roadways, whether improved to city standards or not, and with or without dedicated rights-of-way, and located along the periphery of the proposed development.

**STREET, PRIVATE**

A roadway or street used for internal vehicular circulation within a development that has been identified as such on the development plan or preliminary plat and is located within the access easement recorded on the plat.

**STREET, RESIDENTIAL**

See Street, local.

**STREETS CAPE**

All of the physical elements within the public right-of-way that are encountered by people who use streets and sidewalks. Common streetscape features include:

1. Sidewalks and crosswalks
2. Street design including lane width and surface treatments
3. Lighting
4. Street trees and grates
5. Public art
6. Street furniture, including benches and trash receptacles
7. Signage
8. On-street parking
9. Bus stops

**STRUCTURAL ALTERATIONS**

Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any structural change in the roof, but not including extension or enlargement.

**STRUCTURE**

Anything constructed or erected, that requires location on the ground, or attached to something having a location on the ground, including but not limited to advertising signs, billboards and poster panels, but exclusive of customary fences or boundary or retaining walls.

**SUBDIVIDER**

Any person who:

- having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or
- directly or indirectly, sells, leases or develops or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel, site, unit or plat in a subdivision; or
- engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development, a subdivision, or any interest, lot, parcel, site, unit or plot in a subdivision; and
- is directly or indirectly controlled by, or under direct or indirect common control, with any of the foregoing.

**SUBDIVISION**

Any land, vacant or improved, that is divided or proposed to be divided into two or more lots, parcels, sites, units, plots or interests of less than 20 acres, for the purpose of offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision. Subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bounds description, map, plat or other recorded instrument, and further includes the creation of a condominium, townhome or any other division of property into units and common elements.

**SUBDIVISION PLAT**

The final map or drawing, described in this zoning and development code, on which the developer's plan of subdivision is presented to the plan commission for recommendation and that, if approved by the city council, must be submitted to the county recorder of deeds for filing.

**THROUGH LOT**

A lot having a pair of opposite property lines along two more or less parallel public streets, and that is not a corner lot.

**RECREATIONAL VEHICLE**

A portable unit mounted on wheels or attached to a vehicle designed to provide temporary living quarters for recreational, camping or travel use and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle. Such units are

commonly described as RVs, travel trailers, campers, motor homes, converted buses or other similar units, whether they are self-propelled or pulled, or can be hauled without a special permit.

**TRUCK**

Includes tractor and trailer trucks, or any motor vehicle that carries a truck license.

**UMBRELLA NEIGHBORHOOD ORGANIZATION**

A group or consortium of neighborhoods, businesses and individuals, who work together formally to coordinate several neighborhoods' activities or pool resources.

**UNDERGROUND SPACE**

The entire cavern resulting from the extraction of subsurface-located material from underground areas in such a manner that the surface area of the property is not disturbed except in the vicinity of the entrances and easements serving the development.

**USE**

The purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained. Unless the otherwise expressly indicated, the term "use" means principal use.

**USE OF OPEN LAND**

Storage yards, construction debris sites, used vehicle sales lots, vehicle impound yards, auto wrecking, junkyards, and similar open-air uses when the only buildings on the lot are incidental and accessory to the open-air use of the lot.

**UTILITY**

All poles, towers, wires, lines, cables, conduits, pipes and accessory equipment providing service to multiple properties. Examples include electricity, telephone, telegraph, cable television, gas, water, sewer, steam or petroleum, distribution systems, transmission systems, and accessory equipment.

**USE, PRINCIPAL**

See "principal use."

**VEHICULAR USE AREA**

Any area of the lot not located within any enclosed or partially enclosed structure and that is devoted to a use by or for motor vehicles including parking (accessory or non-accessory); storage of automobiles, trucks or other vehicles; gasoline stations; car washes; motor vehicle repair shops; loading areas; service areas and drives; and access drives and driveways.

**VIDEO STORE**

An exclusive term, identifying a category of business that may include adult media but that is not regulated as an "adult media store." In this context, video store means a retail store offering video cassettes, disks or other video recordings for sale or rent, provided that any store in which adult media constitutes more than 40% of the stock in trade and/or occupies more than 40% of the gross public floor area is deemed an "adult media store." See special conditions in applicable zoning districts for video stores in which adult media constitutes more than 10% but not more than 40% of the stock in trade or occupies

**WETLANDS**

Areas that are saturated or inundated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions.

**WILDLIFE HABITAT**

High quality, regionally significant vegetated areas contiguous to the stream corridor and sites with threatened or endangered species and/or rare upland and lowland communities, as shown on the Kansas City Natural Resources Protection Plan Map.

**WESTPORT AREA**

The area of the city bounded by the following described perimeter: beginning at the intersection of W. 43rd Street and Madison Avenue, then north along Madison Avenue and Southwest Trafficway, then east along W. 40th Street, then north along Washington Street, then east along W. 39th Street, then south along Baltimore Avenue, then southwest along Archibald Street, then southeast along Central Street, then south along Baltimore Avenue, then west along W. 43rd Street to the point of beginning.

**YARD**

The actual (as opposed to "required") open space on a zoning lot that is unoccupied and unobstructed from its lowest level to the sky. See also "Setback."

**YARD, FRONT**

See "front yard."

**YARD, REAR**

See "rear yard."

**YARD, SIDE**

See "side yard."

**YARD, LEAST DIMENSION**

The least of the horizontal dimensions at any level of such yard at such level.

**ZONING LOT**

A single tract of land located within a single block, that (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control.

**88-820 MEASUREMENTS AND EXCEPTIONS**

**88-820-01 LOT AREA**

**88-820-01-A.MEASUREMENT**

The total land area contained within the property lines of a lot.

**88-820-01-B.EXCEPTIONS**

1. A one-family dwelling, wherever permitted as an allowable use, may be erected on any area of land in separate ownership that was in existence at the time of the

passage of the original Ordinance No. 45608, passed June 4, 1923, or any subsequent amendment thereto that causes the area of land in separate ownership to contain less area than required to house one family in the district in which it is located, provided the front, side and rear setback requirements of this zoning and development code are met. For purposes of this section, separate ownership means any lot previously established by a recorded subdivision plat or any lot established by a recorded conveyance.

2. A one-family dwelling, wherever permitted as an allowable use, may be erected on any area of land established by an approved lot split or subdivision plat.

**88-820-02 LOT AREA PER UNIT**

The amount of lot area required for each dwelling unit on the property. For example, if a minimum lot-area-per-unit standard of 1,000 square feet is applied to 6,250 square foot lot, a maximum of 6 dwelling units would be allowed on the property.

**88-820-03 LOT DEPTH**

The mean horizontal distance between the front property line and the rear property line of a lot measured within the lot's boundaries.

**88-820-04 LOT FRONTRAGE**

The horizontal distance between side property lines on a lot, as measured along the front property line.

**88-820-05 LOT WIDTH**

The mean horizontal distance between the side property lines of a lot measured within the lot's boundaries.

**88-820-06 LOT COVERAGE**

The area of a lot covered by principal buildings, as measured along the exterior building wall at ground level, and including all building projections other than those expressly allowed encroaching into required setback areas.

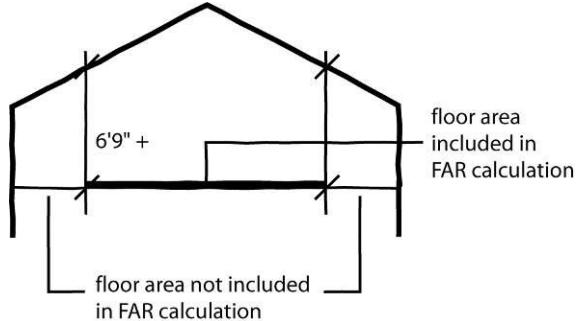
**88-820-07 FLOOR AREA RATIO**

The floor area of the building divided by the total gross area of the lot upon which the building is located.

**88-820-07-A.**For the purpose of calculating floor area ratios, the "floor area" of a building is the sum of the gross horizontal area of all floors in the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings. The "floor area" of a building expressly includes all of the following:

1. floor area of any floor located below grade or partially below grade when more than one-half the floor-to-ceiling height of the below-grade (or partially-below-grade) floor is above grade level;
2. elevator shafts and stairwells on each floor;

3. floor area used for mechanical equipment, except equipment located on the roof and mechanical equipment within the building that occupies a commonly owned contiguous area of 5,000 square feet or more;
4. those portions of an attic having clear height (head-room) of 6 feet 9 inches or more;



5. mezzanines;
6. enclosed porches;
7. floor area devoted to non-accessory parking;
8. floor area within a principal building that is occupied by accessory uses.

**88-820-07-B.** For the purpose of calculating floor area ratios, floor area devoted to accessory parking and the drive aisles and circulation area associated with such parking are not to be counted as "floor area."

## **88-820-08 GROSS PUBLIC FLOOR AREA**

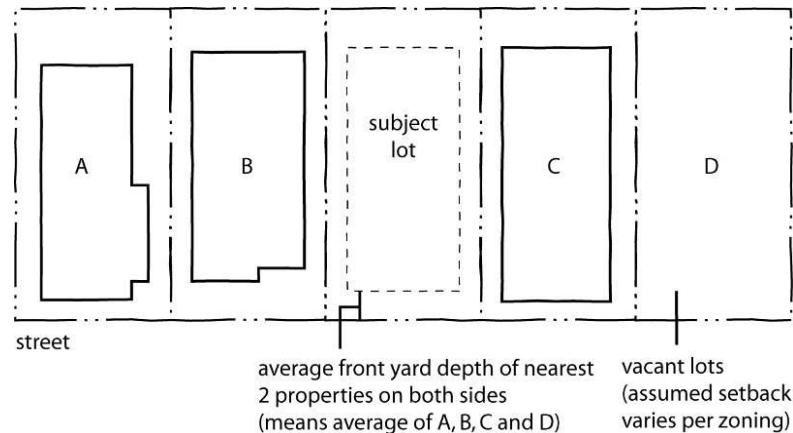
The total area of the building accessible or visible to the public, including showrooms, motion picture theatres, motion picture arcades, service areas, behind-the-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled "public"), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways and entryways serving such areas.

## **88-820-09 FRONT SETBACKS**

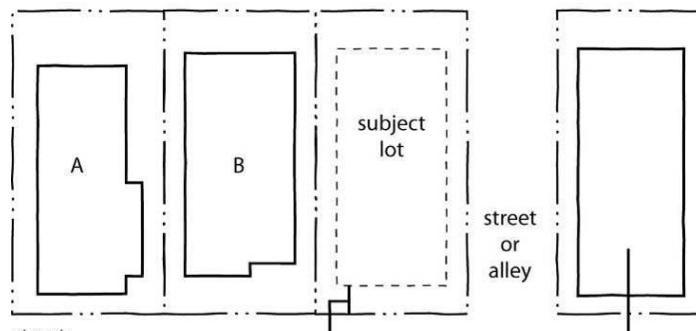
### **88-820-09-A. MEASUREMENT**

1. Front setbacks are to be measured from the front property line of the lot on which such building is located to the exterior wall of the building.
2. The front yard of a corner lot will be measured as follows:
  - (a) The front yard of a corner lot consisting of one platted lot will be adjacent to the street on which the lot has its least dimension.
  - (b) If a corner lot consists of two or more platted lots, each whose least dimension is on the same street as the other lots in the block, then the location of the front yard will be on the same street as the other lots.

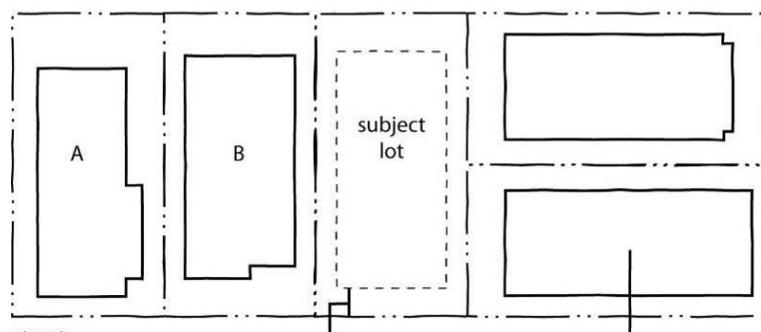
- (c) If a corner lot consist of unplatte land or a combination of platted and unplatte land, the front yard will be on the street where front the greater number of lots, either platted or unplatte.
- (d) Any question as to the measurement of a front setback on a corner lot will be determined by the city planning and development director.
- (e) When existing lawfully established residential buildings on one or more abutting lots are closer to the front property line than the otherwise required front setback, additions to existing residential buildings or construction of new residential buildings on the subject lot may, at the property owner's option, comply with the average front yard depth that exists on the nearest 2 lots on either side of the subject lot instead of complying the zoning district's minimum front setback requirement.
  - (1) If one or more of the lots required to be included in the averaging calculation are vacant, the vacant lots will be deemed to have a front yard depth equal to the minimum front setback requirement of the underlying zoning district.



- (2) Lots that front on a different street than the subject lot or that are separated from the subject lot by a street or alley may not be used in computing the average.



average front yard depth of  
nearest 2 properties on each  
side (means average of A and B)



average front yard depth of  
nearest 2 properties on each  
side (means A and B)

not included in  
calculation (frontage  
on different street)

- (3) When the subject lot is a corner lot, the average front yard depth will be computed on the basis of the nearest 2 lots that front on the same street as the subject lot.
- (4) When the subject lot abuts a corner lot fronting on the same street, the average front yard depth will be computed on the basis of the abutting corner lot and the nearest 2 lots that front on the same street as the subject lot.
- (5) The planning and development department is authorized to require a survey or other reliable, verifiable data to support determination of the average front setback.

#### **88-820-09-B. PERMITTED OBSTRUCTIONS/ENCROACHMENTS**

Setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in 88-820-12. All portions of front setbacks that are not occupied by permitted obstructions (See 88-820-12) must be landscaped and preserved as open space.

#### **88-820-10 REAR SETBACKS**

##### **88-820-10-A. MEASUREMENT**

Rear setbacks are to be measured from the rear property line of the lot on which such structure is located to the furthermost projection of the structure, not including those projections and features allowed within such setback pursuant to 88-820-12.

**88-820-10-B. PERMITTED OBSTRUCTIONS/ENCROACHMENTS**

Setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in 88-820-12.

**88-820-10-C. THROUGH LOTS**

On through lots both (opposing) street lines are considered front property lines and front setback standards apply. Rear setback standards do not apply.

**88-820-11 SIDE SETBACKS****88-820-11-A. MEASUREMENT**

Side setbacks are to be measured from the side property line of the lot on which such structure is located to the furthermost projection of the structure, not including those projections and features allowed within such setback pursuant to 88-820-12.

**88-820-11-B. PERMITTED OBSTRUCTIONS/ENCROACHMENTS**

Required setbacks must be unobstructed and unoccupied from the ground to the sky except as expressly allowed in 88-820-12.

**88-820-12 FEATURES ALLOWED TO ENCROACH IN REQUIRED SETBACKS**

Required setbacks in residential districts must be unobstructed and unoccupied from the ground to the sky except that features are allowed to encroach into required setbacks to the extent indicated in the following table:

Obstruction/Projection into Required Setback	Front	Side	Rear
Accessory buildings used for domestic storage (e.g., sheds and tool rooms)	No	No	Yes
Air conditioning units, provided the unit is not more than 4 feet in height	No	Yes	Yes
Arbors and trellises	Yes	Yes	Yes
Awnings and canopies	Yes	Yes	Yes
Bay windows that project no more than 3 feet into the setback and are located at least 4 feet above grade at their lowest point	Yes	No	Yes
Chimneys that project no more than 18 inches into the setback	Yes	Yes	Yes
Satellite dish antennas, not exceeding 1 meter in diameter	Yes	Yes	Yes
Satellite dish antennas, over 1 meter but not exceeding 2.4 meters in diameter	No	No	Yes
Eaves and gutters projecting 18 inches or less into setback	Yes	Yes	Yes
Eaves and gutters projecting 3 feet or less into setback	Yes	No	Yes
Fences and walls (no more than 20% opaque) up to 6 feet in height	Yes	Yes	Yes
Fences and walls (more than 20% opaque or solid) up to 4.5 feet in height	Yes	Yes	Yes
Fences and walls (more than 20% opaque or solid) up to 6 feet in height	No	Yes	Yes
Fire escape, open; projecting not more than one-half the width of the setback	No	Yes	No
Fire escape, open; projecting not more than 8 feet into the setback	No	No	Yes
Fireproof outside stairway or solid-floored balcony to a fire tower that projects no more than 4 feet into the setback	No	No	Yes
Flagpoles	Yes	Yes	Yes
Parking spaces, enclosed, provided that (attached or detached) garages that are accessed from alleys must be set back at least one foot from the rear property line	No	No	Yes

Obstruction/Projection into Required Setback	Front	Side	Rear
Parking spaces, unenclosed in R districts	No	Yes	Yes
Patios that are not over 4 feet above the average level of the adjoining ground	No	No	Yes
Porches and balconies and that are open on at least 3 sides	No	No	Yes
Recreational equipment (e.g., swing sets and basketball hoops)	No	No	Yes
Roof projecting from garage over open patio not to exceed 8 feet	No	No	Yes
Stairs (unenclosed) providing secondary access required by the Building Code	No	Yes	Yes
Sills, belt courses, cornices, buttresses and other architectural features projecting no more than 3 feet into the setback	Yes	Yes	Yes
Steps no more than 6 feet above grade that are necessary for access to a permitted building or for access to zoning lot from a street or alley	Yes	Yes	Yes
Wheelchair lifts and ramps that meet federal, state and local accessibility standards	Yes	Yes	Yes

## 88-820-13 BUILDING HEIGHT

### 88-820-13-A.MEASUREMENT

The vertical distance between the "ground" and the level of the highest point of the roof beams in the case of flat roofs or roofs inclining no more than one inch to the foot and between the "ground and midpoint between top of the main plate and highest ridge in the case of all other roofs. For the purpose of measuring building height, the "ground" level is the highest of the following three levels: curb level; established or mean street grade if no curb exists; or the average finished ground level adjoining the building if the building is setback more than 10 feet from the street line.

### 88-820-13-B.EXCEPTIONS

#### 1. PARAPET WALLS AND FALSE MANSARDS

Parapet walls and false mansards may extend no more than 8 1/2 feet above the height limit.

#### 2. APPURTENANCES

Flagpoles, chimneys, cooling towers, electric display signs, elevator bulkheads, belfries, penthouses, finials, gas tanks, grain elevators, stacks, silos, storage towers, observation towers, radio or television towers, ornamental towers, monuments, cupolas, domes, spires, standpipes and necessary mechanical appurtenances, where permitted, may be erected to a height in accordance with existing or hereafter adopted ordinances of the city; except that, in R districts, radio or television structures accessory to a residential use, including antenna supports and antennas, may not exceed 60 feet in height.

#### 3. AMUSEMENT PARK RIDES, AMUSEMENT ATTRACTIONS OR ROLLER COASTERS

Height restrictions in any zoning district do not apply to amusement park rides, amusement attractions or roller coasters of any type that are erected in any zoning district in which they are allowed, either temporary or permanent, provided that each is set back a distance equal to its height from all property lines.

**4. LIMITATIONS ON ROOFTOP FEATURES IN R DISTRICTS**

- (a) Stairway enclosures and elevator penthouses in R districts are allowed to exceed the maximum building height, provided:
  - (1) they are set back at least 20 feet from the front building line, and
  - (2) do not exceed 9 feet in overall height or extend more than 5 feet above the building parapet, whichever results in a lesser height.
- (b) Stairway enclosures in R districts may not contain habitable space and may not exceed 170 square feet in area.
- (c) Elevator penthouses in R districts may not contain habitable space and may not exceed 465 square feet in area.

**88-820-14 BUILDING COVERAGE**

The percentage of the lot area covered by the building area.

Section 2. That the Director of City Development is hereby authorized to convene a group of City employees to review this ordinance and recommend any necessary changes every six months after the passage of this ordinance. This group will make its first recommendations to the Council no later than four months after the ordinance has passed so that the Council will have the opportunity to make amendments before the effective date. The group will consist of at least one representative of each of the following departments, to be appointed by the respective Director: Law, Water Services, Public Works, Parks and Recreation and City Development.

Section 3. That Chapters 65, 66 and 80 of the Code of Ordinances are hereby repealed effective June 1, 2010.

Section 4. That the City Clerk is authorized to determine when to publish this ordinance in the Municipal Code Corporation's publication of the City Code.

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Approved as to form and legality:

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M. Margaret Sheahan Moran  
Assistant City Attorney